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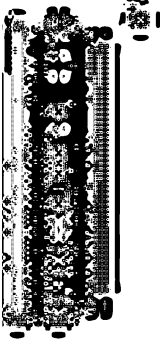
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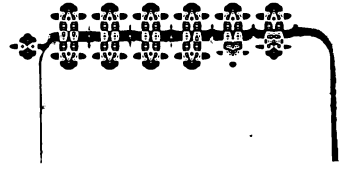
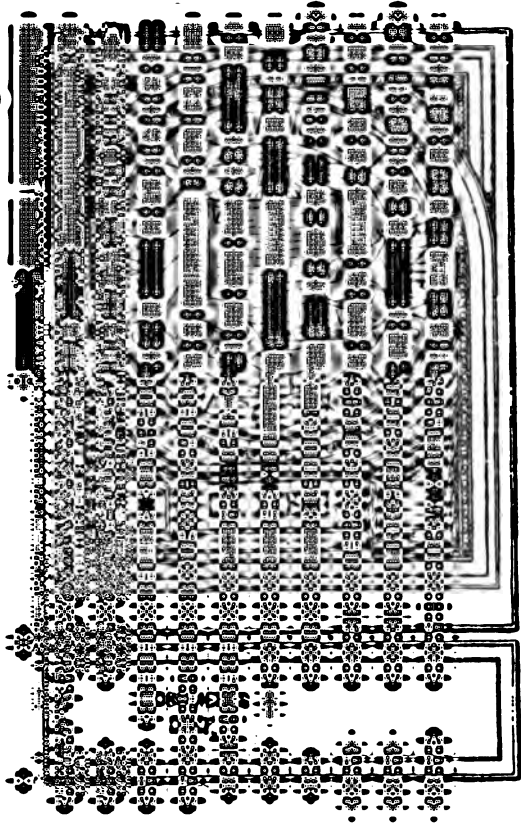
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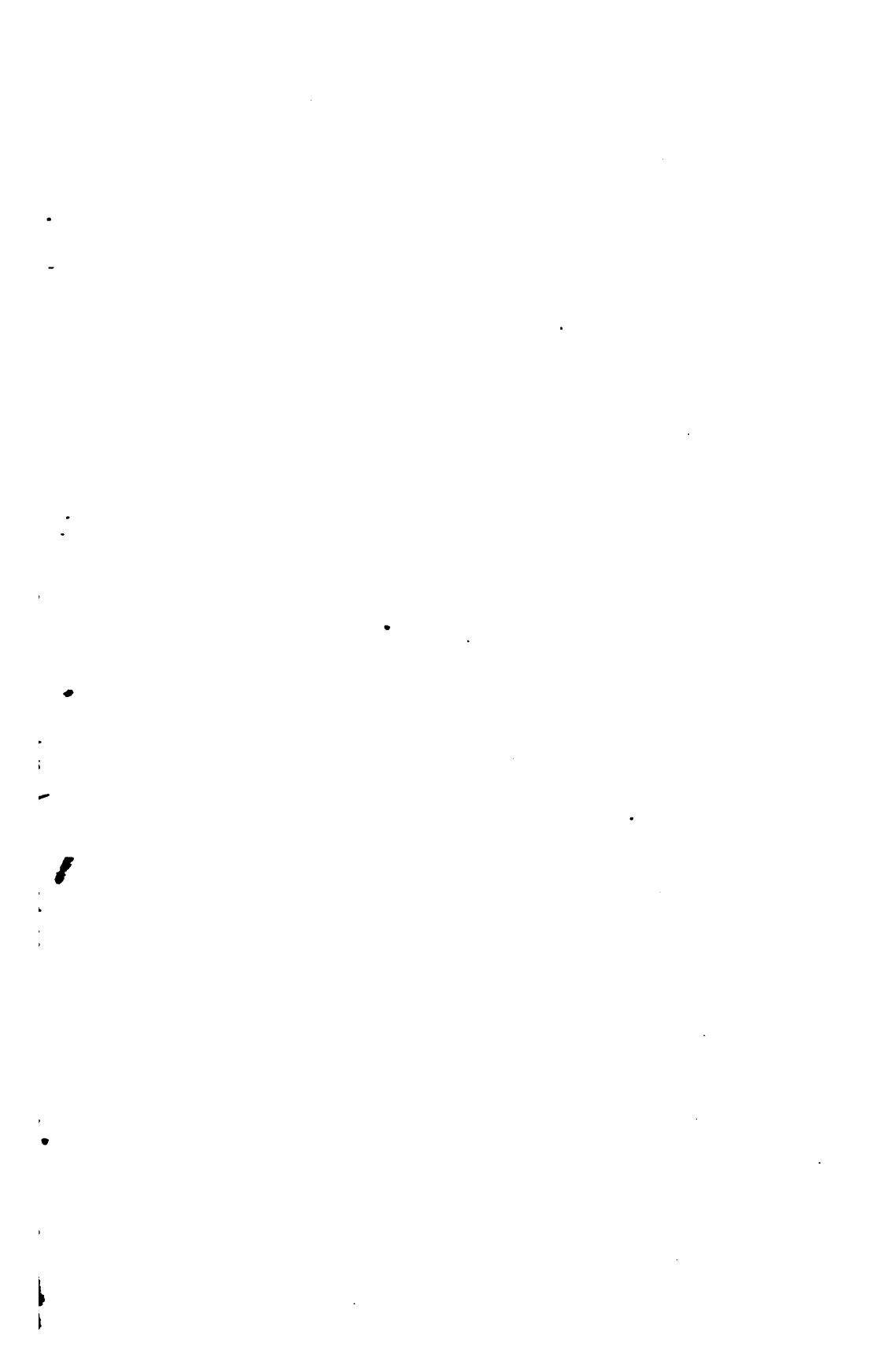
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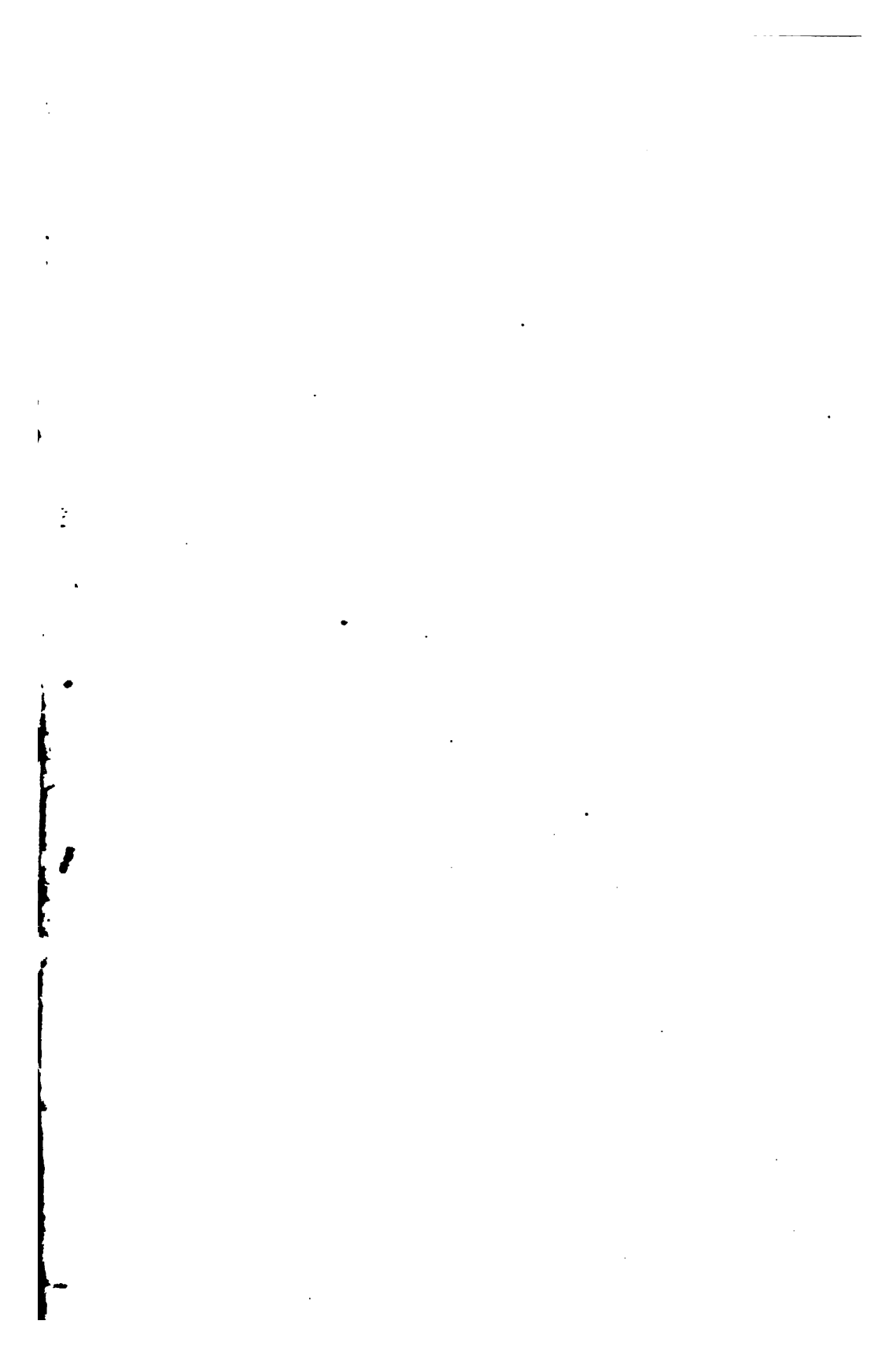
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INVESTIGATION OF CERTAIN TRUSTS.

REPORT

IN RELATION TO THE

SUGAR TRUST AND STANDARD OIL TRUST

BY THE

COMMITTEE ON MANUFACTURES,

U. S. HOUSE OF REPRESENTATIVES.

FIFTIETH CONGRESS, FIRST SESSION.

**WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1889.**

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TRUSTS.

JULY 30, 1888.—Referred to the House Calendar and ordered to be printed.

Mr. BACON, from the Committee on Manufactures, submitted the following

REPORT:

[To accompany Mis. Doc. 124.]

The Committee of Manufactures respectfully report that, acting under the authority and direction of a resolution of this House passed on the 25th day of January, 1888, they have proceeded to investigate and inquire into the matters and things referred to in said resolution, and having examined witnesses and papers in relation thereto they have been unable to complete such inquiry and investigation, and respectfully report the following resolution, with the recommendation that it do pass.

Your committee further report that the names of various combinations and trusts have been from time to time furnished to your committee; that the number of such combinations is very large; and that your committee, in calling witnesses and taking testimony, proceeded upon the following plan of investigation, *i. e.*, to inquire—

(1) With relation to trusts or combinations in lines of business which are connected with or use articles in which there exists a competition in our markets between the domestic product and the foreign product imported and dutiable under our tariff laws.

(2) With relation to such combinations dealing in articles which are not imported into this country or are not subject to import duties.

(3) With relation to such combinations dealing in articles which are subject to taxation under the internal-revenue laws of the United States.

Your committee has particularly directed its inquiry into the methods of and the extent of the business done or controlled by, the sugar trust and the Standard Oil trust, and respectfully submit herewith the testimony taken before it in relation to these two trusts.

In submitting this testimony your committee desire to call the attention of the House to the form of organization of these two trusts. Both of them are organized upon substantially the same plan. From the testimony it appears that there exists a certain number of corporations organized under the laws of the different States and subject to their control; that these corporations have issued their stock to various individuals and that these individual stockholders have surrendered their stock to the trustees named in the agreement creating these trusts and accepted in lieu thereof certificates issued by the trustees named therein. The agreements provide that the various corporations whose stock is surrendered to the trustees shall preserve their identity

and carry on their business. In the Sugar Trust agreement the provision is that the several corporations shall maintain their separate organizations and each shall carry on and conduct its own business.

In the Standard Oil Trust agreement it is provided that all property, real and personal, assets, and business shall be transferred to and vested in the said several companies. The duties of the trustees are restricted to the receipt of the dividends declared by the various corporations and the distribution of the aggregate of them to the holders of the trust's certificates, pro rata, and to holding and voting upon the stock of the corporations. The trustees in both cases, upon the stand as witnesses, specifically denied that the trustees, as such, ever do any other business than to receive and distribute these dividends and exercise the only other function given to them by the trust agreements, that is, to hold the stock of the various corporations and exercise the right of stockholders in such corporation.

The care with which the trustees avoid making any agreement relating to commodities appears from the testimony as to the arrangement made with the Oil Producers' Association in the fall of 1887. The officers of the Producers' Association testified that an arrangement was then made with the Standard Oil Trust by which 5,000,000 barrels of oil belonging to the Standard Oil Trust were set apart for the benefit of the association, upon its agreeing to curtail the production of crude oil at least 17,500 barrels per diem. These witnesses undoubtedly understand that their arrangement was with the trustees of the Standard Oil Trust. But the written agreement produced, and now in evidence, shows that it was made with and is signed by the Standard Oil Company of New York, one of the companies whose stock is held by the trustees, and that the Standard Oil Trust or the trustees thereof, as such, are not parties to it, nor is either of them responsible for the carrying out of that agreement.

This form of combination was obviously devised for the purpose of relieving the trusts and trustees from the charge of any breach of the conspiracy laws of the various States, or of being a combination to regulate or control the price or production of any commodity; hence they assert that the corporations themselves, which control and regulate the price of commodities and the extent of production and have tangible property, remain with their organization intact and distinct, and not in combination with each other; that the stockholders, who owned only the stock, and by well-settled legal rules had no legal title in the property of the corporations, entered into the agreements and sold their stock in the corporations and accepted in payment trust certificates, and that the trustees receive and hold only the stock of corporations, and have no legal title to any of the property of the corporations, and neither buy nor sell anything nor combine with any one to fix prices or regulate production of any commodity.

Your committee have deemed it proper to call attention to this feature of these combinations because it is believed that it will be found that all trade combinations having similar aims either have adopted this method or speedily will do so; and also, because the legislation which has been proposed to this House and referred to your committee has been directed against combinations to fix the price or regulate the production of articles of merchandise or commerce. It is plain that the two combinations, the testimony concerning which is herewith submitted, have been intentionally formed so as to avoid, if possible, the charge that the trust, as such, or the trustees, in that capacity, either fixed the

price or regulated the production of any article of merchandise or commerce.

Complaint having been made to him by citizens of the State of New York against the sugar trust and one of the corporations whose stock it holds, the attorney-general of that State has, after hearing, directed prosecutions to be commenced against that trust and the corporation complained of, upon grounds which are set forth in an elaborate opinion, which is submitted as part of the evidence in relation to that trust, and as containing a careful statement of the law of that State so far as it affords any remedy against such trusts.

TRUSTS.

PROCEEDINGS OF THE COMMITTEE ON MANUFACTURES, HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN RELATION TO TRUSTS, ETC.

WASHINGTON, *March 8, 1888.*

The CHAIRMAN. I will first read the resolution under which this investigation is held:

[Fiftieth Congress, first session.]

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES,
January 25, 1888.

Mr. BACON, from the Committee on Manufactures, submitted the following, which was agreed to:

Whereas it is alleged that certain individuals and corporations in the United States engaged in manufacturing, producing, mining, or dealing in some of the necessities of life and other productions, have combined for the purpose of controlling or curtailing the production or supply of the same, and thereby increasing their price to the people of the country, which combinations are known as associations, trusts, pools, and like names; and

Whereas such combinations not only injuriously affect commerce between the States, but impair the revenues of the United States as derived from its duties on imports: Therefore,

Resolved, That the Committee on Manufactures be, and the same is hereby, directed to inquire into the names and number and extent of such alleged combinations, under whatever name known, their methods of combination or doing business, their effect upon the prices of any of the necessities of life, and of all productions to the people of the country, upon its internal or foreign commerce, and its revenues from impost duties, together with any and all other matters relating to the same which may call for or suggest legislation by Congress, and report the same to the House with such recommendations as the said committee may agree upon. And for these purposes the Committee on Manufactures is authorized to sit during the sessions of the House, to employ a stenographer, to administer oaths, examine witnesses, compel the attendance of persons, and the production of papers. And the expense of such investigation shall be paid out of the contingent fund of the House.

Attest.

JNO. B. CLARK,
Clerk.

Pursuant to that authority certain subpoenas have been issued, and I will call the names of the persons subpoenaed.

The roll of persons subpoenaed having been called the following answered to their names: Henry O. Havemeyer, John E. Parsons, George H. Morrell.

The following persons failed to respond when their names were called: William H. Morris, Hugh N. Camp, and John W. Dodsworth.

TESTIMONY OF JOHN E. PARSONS.

The CHAIRMAN. Mr. Parsons, will you please take the stand ?

Mr. JOHN E. PARSONS took the stand and was sworn by the chairman ; whereupon the following testimony was given.

By the CHAIRMAN :

Q. State your full name.—A. John E. Parsons.

Q. State your residence.—A. I reside in the city of New York.

Q. Your occupation ?—A. I am a lawyer, practicing in New York City.

Q. You are one of the trustees named in the agreement or deed creating the Sugar Refineries Company so called ?—A. There is a deed or agreement to which the question of the chairman refers, which creates a board called the Sugar Refineries Company. I am not a trustee named in that agreement. I am a trustee through the fact that one of the members of the board mentioned therein subsequently resigned, and I took his place.

Q. Have you the deed or agreement in your possession ?—A. I have an exact copy of the original deed or agreement, complete in all respects with the exception that the original deed distributes the entire capitalization among the various persons interested. That portion of the deed has been regarded as private, and as not having any bearing or relation to legislation, and the board has not authorized the production of that portion of the deed. The board has authorized me to produce the deed complete in other respects.

Q. To recur to the question, Mr. Parsons ; have you the original deed in your possession ?—A. The original deed is in my office in New York.

Q. And under your control ?—A. No, not under my control. The deed prescribes that it is under the control of the board, and its official custodian is the president of the board ; but the deed, I think, has never been in the possession of the president. It was drawn by me, and since the time of its preparation during most of the interval it has been in my possession. It may from time to time have been out of my possession for special and temporary purposes. In the main it has been in my possession, however, under the authority of the board.

Q. Who is the person named in it as president ?—A. No one is named in it as president. The deed creates a board of eleven persons, and Mr. Theodore A. Havemeyer is president by selection of the board.

Q. And he is the person to whom you made reference in whose custody officially the deed is. Now I understand you to say you have a copy of it ?—A. I have.

Q. Will you please produce it ?—A. I will. I produce a copy made yesterday and compared by clerks in my office and reported to me as being accurate in all respects. The omission to which I have referred is on page 10 and it readily explains itself. I refer to that for the reason that in another part of the paper amounts are omitted which are omitted from the original. In all respects the copy is complete with the exception of the omission of the amounts against those names.

Q. The comparison made of this copy with the original paper was made, you say, by clerks in your office ?—A. Yes, sir.

Q. And they reported it to you as correct ?—A. Yes, sir ; but its general purport I can testify to from my own knowledge.

Q. You have examined the copy yourself ?—A. I have.

Q. And substantially it is correct ?—A. Yes, sir,

Q. If there are any errors in it they have not been discovered by you and are merely typographical?—A. Or rather clerical; but I am very well satisfied that there are no errors of any kind in it. I will read it for the information of the committee.

The CHAIRMAN. We will not give you that trouble, Mr. Parsons. The clerk of the committee will read it.

The clerk of the committee then read the copy of the deed or agreement as follows:

DEED.

The Sugar Refineries' Company.

The undersigned, namely: Havemeyers & Elder, The Decastro and Donner Sugar Refining Company, F. O. Matthiessen and Weichers Sugar Refining Company, Havemeyer Sugar Refining Company, Brooklyn Sugar Refining Company, the firm of Dick & Meyer, the firm of Moller, Sierck & Co., North River Sugar Refining Company, the firm of Oxnard Brothers, The Standard Sugar Refinery, The Bay State Sugar Refinery, The Boston Sugar Refining Company, The Continental Sugar Refinery, and The Revere Sugar Refinery, for the purpose of forming the board hereinafter provided for, and for the other purposes hereinafter set forth, enter into the following agreement:

NAME.

The board herein provided for shall be designated by the name of The Sugar Refineries' Company.

OBJECTS.

The objects of this agreement are:

- (1) To promote economy of administration and to reduce the cost of refining, thus enabling the price of sugar to be kept as low as is consistent with reasonable profit.
- (2) To give to each refinery the benefit of all appliances and processes known or used by the others, and useful to improve the quality and diminish the cost of refined sugar.
- (3) To furnish protection against unlawful combinations of labor.
- (4) To protect against inducements to lower the standard of refined sugars.
- (5) Generally to promote the interests of the parties hereto in all lawful and suitable ways.

BOARD.

The parties hereto who are not corporations shall become such before this deed takes effect.

Each corporation subscribing hereto agrees, and the parties hereto who are not corporations agree as to the corporations which they are to form, that all the shares of the capital stock of all such corporations shall be transferred to a board, consisting of eleven persons, which may be increased to thirteen by vote of a majority of the members of the entire board, the two additional members to belong respectively to the first and second classes hereinafter provided for.

Any member of the board may be removed by vote of two-thirds of the members of the entire board in case of incapacity or neglect or refusal to serve.

Any member may resign by filing written notice of his resignation with the secretary of said board.

Vacancies during the term of office of members shall be filled by appointment by vote of the majority of the members of the entire board.

A member appointed to fill a vacancy shall hold office until the expiration of the term of the member in whose place he is appointed, which new appointee shall succeed to all the rights, duties, and obligations of his predecessor under this deed.

Vacancies by expiration of office shall be filled at the annual meeting of the holders of certificates herein provided for, or at such other times as shall be prescribed by the board.

Such annual meetings shall be held in the city of New York, in the month of June, and notice shall be given to each certificate holder of record of every meeting of certificate holders, by mailing to him, at least seven days before said meeting, a notice of the time, place, and objects of such meeting. Holders of certificates shall vote according to the number of shares for which they hold certificates. They may vote by proxy.

The board may make by-laws. All arrangements for meetings, elections, and all details not herein specifically provided for, shall be made by the board. A member of the board may act by proxy for any other member with like effect as if he were present and acting.

A majority of the members of the board shall constitute a quorum for the transaction of business. The action of a board meeting, by a majority vote of such meeting, shall have the same effect as the unanimous action of the board, except as herein otherwise provided, and that to authorize the appropriation of money, bonds, or shares, shall require the assent, either written or expressed, by vote at a board meeting, of at least a majority of the members of the entire board.

No member of the board shall, during the time that he holds office, buy or sell sugar or be interested directly or indirectly in the purchase or sale of sugar, whether for the purpose of speculation or otherwise, without a vote of a majority of the members of the entire board. For any violation of this provision he may be removed as a member of the board and shall be liable to account for all profits which shall be realized by him to the board for the pro rata benefit of the certificate holders.

As it is desirable that the board shall consist of members who are largely interested in the properties and the business contemplated, it is hereby agreed that all members of the board shall be free to join in or become parties to agreements and transactions which the several boards of directors hereinafter referred to, or this board, may arrange, to the same extent and in the same manner and with the like effect as if they were not members of the board.

The said board may transfer, from time to time, to such persons as it may be desired to constitute trustees, or directors, or other officers of corporations, so many of the shares as may be necessary for that purpose, to be held by them subject to the provisions of this instrument. Such transfers may be executed by the president and treasurer of the board in behalf of and as attorneys for the board for that purpose and to be retransferred when so requested by the board.

The first board shall consist of the persons hereinafter mentioned; they shall hold office as follows and until their successors shall be elected:

Members of the first class.—Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg; to hold office seven years.

Members of the second class.—Theodore A. Havemeyer, Joseph B. Thomas, John Jurgensen, Hector C. Havemeyer; to hold office five years.

Members of the third class.—Charles H. Senff, William Dick; to hold office three years. At the expiration of the terms of the third class, and of each successive class, their successors as members of such class shall be elected for seven years.

OFFICERS.

The board shall appoint from its members a president, vice-president, and treasurer, and it shall also appoint a secretary, who may or may not be a member of the board. The board may from time to time create other offices and appoint the persons to fill them. It may appoint committees. It shall designate the duties and prescribe the powers of the several officers and committees.

PLAN.

The several corporations, parties to this agreement, shall maintain their separate organizations and each shall carry on and conduct its own business.

The capital stock of each corporation shall be transferred to the board, and in lieu of the same certificates not exceeding \$50,000,000, divided into 500,000 shares, each of \$100, shall be issued by the board and distributed as hereinafter provided.

The certificates shall be in the following form:

No. ———.]

[——— Shares.

[Shares one hundred dollars each.]

THE SUGAR REFINERIES COMPANY.

This is to certify that ——— is entitled to ——— shares of the Sugar Refineries Company.

This certificate is issued under and subject to the provisions of a deed dated the 16th day of August, 1887.

The shares represented by this certificate are transferable by the holder and his personal representatives in person or by attorney, upon the books of the board and not otherwise, and only upon the surrender of this certificate.

They entitle the holder to the rights and are subject to the provisions mentioned in the deed.

The interest of the holder is in the proportion of the number of shares represented by this certificate to the entire number of shares outstanding. The total amount represented by outstanding certificates and the terms of the deed may be changed from time to time by a majority in interest, as therein provided.

In witness whereof the board has caused this certificate to be signed by its president and treasurer and the seal of the board to be affixed hereto, the day of _____, 1887.

For value received ——— do hereby assign, transfer, and set over unto ——— shares of those represented by the within certificate, and ——— do hereby constitute and appoint ———, attorney, irrevocable for ———, and in ——— name and stead to transfer the said shares upon the books kept for the purpose under the direction of the within board.

The assignee, by accepting this transfer, assents to the terms of the deed referred to in the certificate as the same shall be changed from time to time.

Witness hand and seal this day of , 1880.

TITLE.

The shares of the capital stock of the several corporations to be transferred to the board as herein provided shall be transferred to the names of the board as trustees, to be held by them and by their successors as members of the board strictly as joint tenants.

By the death, resignation, or removal of any member of the board, the whole title shall remain in the others. All members ceasing to be such shall execute such instrument as may be necessary, if any, to keep the title vested in the persons who from time to time shall be members of the board.

The board shall hold the stock transferred to it with all the rights and powers incident to stockholders in the several corporations and subject only to the purposes set forth in this deed.

DIVISION OF INTEREST.

The several corporations shall be entitled to the shares in the following proportions of the \$50,000,000, viz:

Havemeyers & Elder.....	.....
Decastro and Donner Sugar Refining Company, F. O. Matthiessen and Weichers' Sugar Refining Company.....	.....
The Havemeyer Sugar Refining Company.....	.....
The Brooklyn Sugar Refining Company.....	.....
Dick & Meyer .....	.....
Moller, Sierck & Co.....	.....
Oxnard Brothers.....	.....
North River Sugar Refining Company.....	.....
Standard Sugar Refinery .....	.....
Boston Sugar Refining Company.....	.....
Bay State Sugar Refinery.....	.....
Continental Sugar Refinery.....	.....
Revere Sugar Refinery .....	.....

Each refinery and the corporation to which it belongs shall be freed from liability and indebtedness by the parties interested in it; or such parties, if the board shall approve, may provide in cash for such indebtedness or liability, leaving the same to stand at the pleasure of the board, except that the employes' contracts shown in the schedules hereto annexed, and the contracts with Havemeyer & Elder and the F. O. Matthiessen and Weichers Sugar Refining Company, and the Bay State Sugar Refinery pending for improvements and enlargements, shall continue as liabilities.

Annexed hereto are schedules in general terms of the properties of the several refineries. The properties are guaranteed to correspond with the schedule by the parties interested therein, who are to make good any deficiency. On the complete execution of this agreement each of the said parties shall make a full inventory of the property not embraced in such schedules, and useful for the conduct of the business, on hand or contracted for, including raw and refined sugars, molasses, sugars in process, sirups, bone-black, fuel, barrels, packages, charcoal, and other supplies; and such inventory is to be examined, and the articles appraised at their present cash value (except as to sugar and molasses to arrive, which are to be appraised at their market value on arrival) by a committee of five persons, as follows:

THEODORE A. HAVEMEYER.
F. O. MATTHIESSEN.
JULIUS A. STURSBURG.
JOHN E. SEARLES, Jr.
JOSEPH B. THOMAS.

The value of such property as fixed by four-fifths of the appraisers shall be paid for in cash by the said board to the treasurer of each corporation.

Bone-black may at the option of the board be paid for in cash or in bonds hereinafter provided for or in certificates at a rate for bonds or certificates to be fixed by vote of a majority of the members of the entire board.

The property shall remain with the refinery where it is, to be used by it, except as such refinery shall make a different disposition of it.

TRUSTS.

In consideration of the transfer of their stock to the board, the board shall also pay to Havemeyer & Elder the sum of _____, to the F. O. Matthiessen and Weichers Sugar Refining Company the sum of _____, and to the Bay State Sugar Refining Company the sum of _____ on account of payments already made on pending contracts for improvements and enlargements.

Additional shares to the amount of \$400,000, less 15 per cent. to be left with the board as hereinafter provided, shall be received by Moller Slerck & Co. for improvements and enlargement of capacity of their refinery now in progress, when said improvements are completed and the increased capacity demonstrated.

The shares assigned to the several refineries shall be distributed by them to and among the parties interested therein.

Each holder of stock in a refinery company shall be entitled to so many of the shares allotted to such refinery as shall be in proportion of his stock to the capital of his company.

Shares for stockholders of any refining company who shall not surrender their stock, may, under the direction of the board, be deposited for their account with the right to receive the same upon the surrender of their stock.

Of the shares allotted to the several refineries they shall leave 15 per cent. with the board, and these shares and any shares not allotted of the \$50,000,000, except as herein otherwise provided, shall be subject to be disposed of by the board either for the acquisition of other refineries, to become parties to this deed, payment for additional capacity, or by appropriations to the several refineries.

But in no case shall any appropriation be made to or any action be taken by any corporation without the approval of its board of directors, and no action be taken by the board which shall create liability by it or by its members.

PROFITS.

The profits arising from the business of each corporation shall be paid over by it to the board hereby created, and the aggregate of said profits, or such amount as may be designated for dividends, shall be proportionately distributed by said board, at such time as it may determine, to the holders of the certificates issued by said board for capital stock, as hereinbefore provided.

FISCAL ARRANGEMENTS.

The funds necessary to enable the said board to make the payments herein provided to be made by it may be raised by mortgage to be made by the corporations, or either, any, or all of them, on their property, and by such other means as shall be satisfactory to such board.

In case any mortgage shall be laid on the property of any corporation by its directors or stockholders, the holders of certificates shall, within a time to be fixed by said board, have the right, at such uniform rates as said board shall arrange, to have the bonds, certificates, or other evidence of debt or interest in proportion to their respective holdings. Any parts which shall not be thus taken may be disposed of by said board.

CHANGES.

The number of shares and the total amount thereof issuable by said board may from time to time be increased or diminished by deed executed by a majority in value of the certificate holders.

The provisions of this deed may from time to time be changed by deed executed by not less than a majority in interest of the certificate holders, provided no change shall be made which shall discriminate to the disadvantage of the certificate holders as between themselves.

ACQUISITION OF OTHER REFINERIES.

The capital stock of other sugar-refining companies and of companies whose business relates directly or indirectly to sugar refining (in every instance to be incorporated) may be transferred to said board with the consent of a majority thereof at valuation and upon terms satisfactory to it, to be held by said board under and subject to all the terms of this deed, and certificates may be issued therefor by said board, and may be sold by it to provide funds for such purchase or purchases, and any such corporation or corporations shall thereupon become a party to this deed upon causing the same to be duly signed in its behalf.

CUSTODY OF DEED.

This deed, when executed by the parties hereto, shall be delivered to the president of the board, who shall have the sole and independent custody and control of the

same, and the said deed shall not be shown or delivered to any corporation, firm, person, or persons whatsoever, except by the express direction and order of the board.

A copy of the said deed shall be also lodged with a member of the board residing in Boston, Mass., which shall be held by him under the same condition and in the same manner as the original deed.

In witness whereof the parties have hereto set their seals and affixed their names, these presents to become binding when completely executed by all the parties, and to take effect from October 1, 1887.

Dated August 16, 1887.

HAVEMEYERS & ELDER.

DONNER & DE CASTRO SUGAR REFG. CO., per E. O. HAVEMEYER, *Manager*. (Subject to confirmation stock and scrip holders.)

F. O. MATTHIESSEN & WEICHERS SUGAR REFG. CO., F. O. MATTHIESSEN, *P.*

HAVEMEYER SUGAR REFINING COMPANY, JNO. E. SEARLES, *Jr., Treasr.*

DICK & MEYER.

NORTH RIVER SUGAR REFINING CO., GEO. H. MOLLER, *Secretary*.

OXNARD BROS.

MOLLER, SIERCK & CO.

BROOKLYN SUGAR REFINING CO., HENRY OFFERMAN, *Treas.*

STANDARD SUGAR REFINING CO., by CHARLES O. FOSTER, *Pres.*

BAY STATE SUGAR REFG. CO., per EDWIN F. ATKINS, *Pres.*

CONTINENTAL SUGAR REFINERY, by SILAS PIRÉE, *President*.

The undersigned hereby agree to become parties to the foregoing deed in accordance with the terms and conditions therein stated, they to receive without discount the amounts in certificates set opposite their respective signatures:

FOREST CITY SUGAR REFINING CO., by H. J. LIBBY, *President*;
GEO. S. HUNT, *Treas.*

ST. LOUIS SUGAR REFINING CO., by W. L. NOOTT, *President*;
A. D. CUNNINGHAM, *Sect. and Treasurer*.

PLANTERS' SUGAR REFINING CO. NEW ORLEANS, JOHN BARKLEY, *Pres.*

LOUISIANA SUGAR REFINING CO., JOHN S. WALLIS, *President*.

The CHAIRMAN. This instrument is dated August 16, 1887. Was it executed on the day it bears date?

Mr. PARSONS. My recollection is that at or about that time it was signed by Havemeyers & Elder and by H. O. Havemeyer in the mode in which his signature appears there as manager of the Donner and De Castro Sugar Refining Company; and that the other signatures came along from time to time during an interval of one, two, or more months, so that the complete execution of the paper—I mean of the original paper, not the appendix—may not have been consummated until some time in October. The supplementary paper was executed later.

Q. Was the execution of the original paper completed by the 1st of October, 1887?—A. I speak with some diffidence on that subject, because I have no recollection that I saw it signed by anybody except the Havemeyers, as I have stated, but according to reports received by me from time to time I think that the complete execution did not occur until October. At all events this I know about—the fact that the arrangement was not considered as complete for practical operations until October, but whether the signatures were all affixed by that time I am in doubt.

Q. The instrument itself provides that it shall go into effect on the 1st of October, 1887. When did it go into effect?—A. Some time later than that; I think as of November 1.

Q. The addition appended here, signed by the Forest City Sugar Refining Company, the Saint Louis Sugar Refining Company, the Planters' Sugar Refining Company, and the Louisiana Sugar Refining Company,

is not dated. Can you tell me when it was put upon the papers?—A. I think the Forest City Company, which is a Portland company, signed not very long after the others. The Saint Louis Refining Company and the two companies in New Orleans signed somewhat later. But, as I had nothing to do with securing those signatures, I can only speak in a vague way about the date.

Q. Was it completed in the form in which it is now in your possession before the 1st of January?—A. I should think not. The paper has been so often in and out of my possession and has so frequently come back to me with additional names, that you can easily see I can not speak with much confidence as to the date.

Q. Can you fix the last time that it came back to you with additional names?—A. I think it must have been before the 1st of January.

Q. You think it was before the 1st of January?—A. I think so. My recollection and very strong impression is, that it was before the 1st of December.

Q. In the shape in which you have it here?—A. Yes, sir.

Q. Then somewhere about the 1st of December, 1887, it went into effect as to all the persons and corporations you have named here?—A. No action of which I know has been taken to fix the date at which it should take practical effect other than that which fixes the date as of October 24, and parties who came in later probably came in, so far as possible, to be parties as of that date.

Q. So that as far as concerned the date to which this should go into effect, the intention was that the parties who signed this appendix should have their relation to the business date back to the others?—A. Yes, sir. You observe that reference is made to the inventories of different refineries to be passed upon by various gentlemen representing the board. Those inventories were delayed more or less, and before they could be completed and an examination of titles could be perfected there was an interval of time which largely explains the delay from the date when the paper was completely signed down to the time when it went into practical effect. The parties interested in the various refineries by the terms of the paper guaranteed the schedules which they furnished, and those schedules are the complete schedules of the entire property belonging to each refinery.

Q. It is provided here in this agreement that parties to it who are not corporations shall become such before this deed takes effect. In fact, where the copartnerships turned into corporations the corporations which took their place fully organized before the 24th of October?—A. They were fully organized into corporations, but whether that was complete before the 24th of October I am in doubt; and for this reason, Mr. Chairman, that it was a matter of very little practical difference. Each one of these refineries were in the ownership of a limited number of persons. The Havemeyers, for instance, consisted of three partners, and others were in somewhat the same proportion, and whether the interest stood in the names of the individuals as owners, or in their interest as holders of stock of a company, made very little difference. The matter of having these partnerships organized into corporations was intrusted to me, and I have a general recollection that it was done about the time fixed for the arrangement to go into effect.

Q. At any rate it has been done now?—A. Yes, sir; it has been done. The present situation is this: All the interests in all these refineries are represented by stock.

Mr. BRECKINRIDGE. All of what, Mr. Parsons?

MR. PARSONS. All the property of all these refineries is represented by stock—the stock of corporations—and that stock, the stock of the individual owners, has all been transferred to the members of this board. And against that stock the members of this board have issued certificates in the form stated in the deed. Although the deed runs in the names of corporations, it must be obvious to the members of the committee that the interests are individual interests. Although these signatures are of corporations, they were affixed with the authority of the limited number of individuals named, and they, as individuals, have surrendered the stock and as individuals have received these certificates of interests, the management remaining unchanged and the business going on under the management of these individuals.

Q. Then the situation to-day is that the property of these various copartnerships has been transferred to the corporations which have been formed since this agreement was prepared, and that the stock in those corporations has actually been surrendered to the trustees named in this paper?—**A.** Yes, sir; but I do not wish to answer this without the qualification that there may be a limited amount of stock as to which a transfer has not yet taken place; but as a general proposition, you are correct. Every individual holder of stock in each one of these corporations has surrendered his stock to the members of this board, and they have given him in exchange certificates of the kind named in the deeds.

Q. To take these up in detail, the first signature is Havemeyers & Elder; that was a copartnership?—**A.** Yes, sir.

Q. That was turned into a corporation?—**A.** Yes, sir; the Havemeyer and Elder Sugar Refining Company.

Q. And that corporation was formed under the laws of what State?—**A.** New York.

Q. Do you recollect whether it was under the mining and mechanical act of 1848?—**A.** Yes, sir; it was under the general law. You are aware, Mr. Chairman, that there were two acts, the act of 1848 and the act of 1875. This incorporation took effect under the act of 1848.

Q. The next signature is Donner and De Castro Sugar Refining Company. Was that an existing corporation?—**A.** It was.

Q. That company was organized under the laws of New York?—**A.** That company has been in existence for many years as a corporation. I did not organize it, but my strong impression is that it was organized under the general act of 1848. It was certainly not organized under a special act.

Q. You do not remember how long it has been organized?—**A.** I think for at least twenty years prior to 1887.

Q. The next signature is F. O. Matthiessen and Weicher's Sugar Refining Company, F. O. Matthiessen, president. Was that a corporation at that time?—**A.** That, at the time of the execution of the paper, was a corporation. It was originally a partnership, but the change took place before the execution of this paper.

MR. HAVEMEYER. It has always been a corporation, organized under the New Jersey laws.

Q. It is located where?—**A.** The refinery is located in Jersey City.

Q. Is the office of the company in the refinery building?—**A.** I presume so, but it also has a business office in Wall street, New York.

Q. The Havemeyers and Elder Company was organized with its office where, Mr. Parsons?—**A.** The certificate, I think, makes the county of Kings the locality of that corporation. Its refinery is situated in the

eastern district of Brooklyn, but it has an office at the corner of South and Wall streets, New York.

Q. Where is the Donner and DeCa tro Sugar Refinery Company located?—A. Its principal office—I might say its legal office—is in the eastern district of Brooklyn.

Q. The certificate is filed in Kings County, then?—A. I think the certificate is filed both there and in New York, but its official location is in Brooklyn, and it also transacts business in New York. In that company the members of the Havemeyers & Elder firm have always been very largely interested, and my impression is that their office is in the office of Havemeyers & Elder.

Q. The next signature is "Havemeyer Sugar Refining Company, John E. Searles, jr., treasurer;" was that a corporation?—A. That was an existing corporation.

Q. Located where?—A. Its refinery was in the eastern district of Brooklyn, and it also had a refinery in Jersey City.

Q. Where was the legal location of the company?—A. It is a New York State corporation, with its principal business office in Kings County, and its principal mercantile office in the city of New York.

Q. But where was its principal business office as named in the act of 1848?—A. That I do not know.

Q. Then you do not know whether the certificate was filed in Kings County or in New York?—A. No, sir.

Q. The next signature is "Dick & Meyer."—A. They were a copartnership and became organized into a corporation about the same time as Haymeyers & Elder.

Q. What was the corporate title of the company?—A. I think it was called The Dick & Meyer Company.

Q. Was it organized under the act of 1848?—A. Yes, sir.

Q. Location where?—A. Kings County.

Q. The next signature is the "North River Sugar Refining Company, George H. Moller, secretary;" was that an existing corporation?—A. Yes, sir.

Q. Organized where?—A. In the State of New York, having its refinery in New York City on the eastern side of the city near Grand street, I think, and having a mercantile office on Wall street near the Ferry.

Q. The next signature is "Oxnard Bros."—A. They were a copartnership, with their refinery in Kings County, and they became incorporated as the Oxnard Company in accordance with the provisions of that paper.

Q. And the location of their principal office was in Kings County?—That is my belief, but I am quite satisfied that they became incorporated as a Kings County corporation, that is, having their principal office in Brooklyn.

Q. The next signature is "Moller, Sierck & Co.;" was that a copartnership?—A. What was said in reference to the Oxnard Company applies to their case. They were a copartnership and became organized into a corporation, with Kings County as the locality of the corporation. Whether they have a mercantile office in New York or not, I do not know.

Q. The next signature is the "Brooklyn Sugar Refining Co., Henry Offerman, treasurer;" was that a corporation at that time?—A. It was.

Q. Formed under the laws of what State?—A. New York; and I think having a location in Kings County.

Q. The next signature is the "Standard Sugar Refining Co., by Charles O. Foster, pres."—A. That, as I understand it, was a corporation at the date of the paper. It was a Massachusetts corporation.

Q. The next signature is the "Bay State Sugar Refining Company, per Edwin F. Atkins, pres."—A. That was also a Massachusetts company.

Q. Next is the "Continental Sugar Refinery, by Silas Piree, pres."—A. That was also a Massachusetts corporation.

Q. That completes the list of the original signatures. Those signing the appendix are the "Forest City Sugar Refining Company."—A. That was, as I understand, a Maine corporation established at Portland, Me.

Q. Its refinery was situated there?—A. So I understand.

Q. The next signature is the "Saint Louis Sugar Refining Company?"—A. I assume that to be a Missouri corporation. It was a corporation at the time of the execution of the paper and previously thereto, and I believe that its refinery is in Saint Louis.

Q. The next signature is the "Planter's Sugar Refining Company?"—A. That is a Louisiana corporation with location at New Orleans.

Q. The next signature is the "Louisiana Sugar Refinery Company?"—A. The same answer will apply to that.

Q. Now you have testified fully as to the original signers of this paper. Will you state, please, with reference to these four companies who signed the appendix to this agreement, whether their stock has been transferred to the trustees?—A. My answer previously given applies to those companies. I believe that all of the stock has been transferred by the individual owners of the stock to the board, and that to them in exchange have been issued the certificates of interest given by the board. Perhaps, in order to be exact and accurate, I ought to qualify this answer and the answer I have previously given to this extent. The transfer took place with the intermediation of a committee consisting of myself, Mr. John R. Dos Passos, who was of counsel for some parties interested, and a lawyer of Boston by the name of Merwin. Our habit was to see if the stock of these various refineries was actually surrendered and check it off before giving certificates. And that makes me think that in every case the certificate has issued with this possible exception, that in case of some small lots of stock there may have been some informality about the transfers which led us not to issue certificates in exchange.

Q. Then, with the exception of transfers which have been delayed by informality the stock of all these companies has come into the possession of the trustees?—A. I believe so.

Q. And in each instance all the stock has been transferred with the exceptions as stated?—A. I may go a step further and say, without qualification, that all the stock has either been transferred or is in the way of being transferred. No stockholder of any of these corporations has failed either to transfer his stock or to take steps looking to its transfer.

Q. The paper which you have produced provides that this board shall consist of eleven persons, which number may be increased to thirteen by the vote of a majority of the members of the entire board, the two additional members to belong respectively to the first and second classes therein provided for. Has any action been taken under that provision?—A. Not that I know of.

Q. None could be taken without your knowledge, could it?—A. Very readily; I do not attend the meetings of the board very often.

Q. Where are these meetings held?—A. Those that I attended were at the office of Mr. Dos Passos, to whom I have referred as counsel for some of the parties interested.

Q. Have there ever been meetings of which you have been notified which you have not attended?—A. I think I have received from Mr. Searles a very informal memorandum of one or two meetings, which I have not attended. I have known in a general way that informal meetings were often held, and I have not been present at those meetings.

Q. Do you know if Mr. Dos Passos was more frequent in attendance than yourself?—A. He was not a member of the board.

Q. And not secretary of the board?—A. No, sir; he was not secretary.

Q. He has no connection other than as counsel?—A. At present he has no connection. He was counsel for some of the parties interested, down to the complete consummation of the business.

Q. You took your place in this board by reason of the resignation of some member of it, I understand?—A. Yes, sir. Before the arrangement became consummated there was some question about the membership of this board, and that settled itself by the resignation of Mr. Hector C. Havemeyer, who, I think, was a member of the second class, and by my becoming his substitute, as a sort of balance-wheel, by the unanimous action, as I understood, of all the other parties, including himself.

Q. And your connection with the board was the result of an appointment made by a vote of the board?—A. So I understand. I was not present at the meeting, but it was so reported to me, and I believe it to be so.

Q. This instrument also provides that this board may make by-laws. Has it made any by-laws?—A. I think not. I have no knowledge that by-laws have been made, and I think they could not have been made without my knowing it, as I would probably have been called upon to make them. There has been no occasion for them.

Q. There is a provision in this agreement that "No member of the board shall, during the time that he holds office, buy or sell sugar, or be interested, directly or indirectly, in the purchase or sale of sugar, whether for the purpose of speculation or otherwise, without a vote of the majority of the members of the entire board." To your knowledge, has any such permission been given to any member of the board?—A. Not to my knowledge. The gentlemen who compose the board represent a majority, and I think much more than a majority, of the interest, but their interests are represented in each of these companies, and I do not believe that such permission was necessary or that it has been given.

Q. Then this permission was intended simply to restrict their personal action as members of the board, and not to affect the corporations represented by them?—A. Decidedly. It was the intention that nothing should hamper the action of these corporations, but that the members of the board having knowledge of the conferences in the board should not take advantage of that knowledge except—

Q. Except for the benefit of his own corporation?—A. Exactly.

Q. There is this provision in the deed :

The said board may transfer, from time to time, to such persons as it may be desired to constitute trustees or directors or other officers of corporations, so many of the shares as may be necessary for that purpose, to be held by them subject to the provisions of this instrument; such transfers may be executed by the president and treasurer of the board in behalf of and as attorneys for the board for that purpose, and to be retransferred when so requested by the board.

Has any action ever been taken on that provision to your knowledge?—A. Yes; this action has been taken. Either stock belonging to the individual trustees or directors of these various corporations sufficient to qualify them has been retained by them, or, if transferred to the board, has been retransferred back so as to continue their qualifications.

Q. And whether the stock was retained by them or has been retransferred to them, they hold it subject to the right of this board to require a retransfer to the board?—A. I think that puts it as I understand it. That I understand to be the effect of this agreement. I understand that the members of this board own stock, and they have all the rights of the stockholders of the corporation.

Q. So that, as you understand the purpose of this agreement, the persons who hold this stock for the purpose of qualifying them as officers of the corporation have no beneficial interest in it whatever?—A. They have a very large beneficial interest in it.

Q. In the stock they hold for the purpose of qualifying them as officers?—A. The chairman uses the words "beneficial interest;" and they have a very large beneficial interest. Their beneficial interest is in the proportion of certificates held by them to the entire number, which is very large. They hold a very large interest.

Q. At the time that this stock is transferred or retransferred to various persons in order to qualify them as officers, does your board require a surrender of its certificates which it issued as the equivalent of the stock to be transferred back?—A. I do not think that the board has taken any action upon the subject.

Q. Was any reduction made from the amount of certificates issued by your board to the various corporations whose stock was transferred to you by reason of the retention or retransfer of any portion of the stock of those companies, respectively, to individuals who are to be qualified to act as officers of it?—A. The question of the chairman contains an error, inadvertent, no doubt. He spoke about the certificates as being transferred to the corporations. No certificates have been withheld in respect to the share of stock with which trustees in the various corporations have been qualified; and to make the case perfectly clear attention must be called to the fact that by the deed or agreement 15 per cent. of the entire capitalization remains with the board, and therefore there is a considerable reserve, quite ample for the purpose referred to.

Q. Now I understand you to say that the effect of this instrument is to vest the legal title, and to make this board the owner of all the stock of the various corporations—that they become the owners of it?—A. They become the absolute owners, with the exception of the stock transferred to trustees, as to which I have fully explained.

Q. Still, the trustees have a right to recall that stock?—A. According to the deed, yes.

Q. Let me call your attention to the provision.—A. I am very familiar with the provision. I think that if I were a trustee of a corporation and were asked to transfer stock, I could do as I liked about it, and I doubt very much if I could be compelled to give up my stock. But if I were a trustee of one of these corporations, or a recognized officer, and the interest that I represented was the interest of a person who held a certificate, I would do as any other person would do—follow the wishes of my stockholders.

Q. When you drew this agreement requiring that these shares of stock which were given to various persons in order to qualify them as

officers of the corporation should be transferred when required by a board created by this agreement, did you not intend that the ownership or retention of these shares should be absolutely at the disposal of the members of this board?—A. No; my recollection is that that provision looked to the case of trustees of one of these refinery corporations ceasing to be interested, and if he ceased to be interested—

Q. If he ceased to be interested, would he continue to hold stock?—A. He might hold the stock, although he parted with his certificates.

Q. Would he still hold the stock of the corporation?—A. Yes, sir; and in such a case there would be a transfer of his stock to some person who became a trustee of that particular corporation.

Q. In that event he would have a legal title to the stock without any interest in it?—A. In that event, if he retained the stock, he would. If an officer or trustee surrenders his stock, I think by law he then resigns his position, and it then becomes the right of parties interested to name a substitute.

Q. The transaction, as I understand you now from what you have stated with regard to each of these corporations, then amounts to this, that the stockholders transfer to this board at an agreed valuation their stock and take from the board certificates as provided for by this instrument?—A. The question states the case with the exception of a portion of it which speaks of an agreed valuation. There was no relation of the certificates, so far as I recall, to the stock of these various corporations. The relation was between the value of their properties and the certificates issued.

Q. At an agreed valuation of the properties?—A. Yes, sir; that is, a valuation of the properties was agreed to in certificates.

Q. And that valuation was not diminished in any way by reason of the fact that some of the certificates of the stock of this corporation were permitted to remain in the hands of gentlemen who are permitted to act as trustees of the board?—A. No, sir; and for the reason that these trustees were holders of stock. They held them in their beneficial right.

Q. Holders of the stock of what?—A. Theodore A. Havemeyer is a trustee of the Havemeyer Sugar Refinery Company, and he is also a member of this board. He is a holder of a large amount of the certificates of this board which represent a large interest in the stock.

Q. Which he has surrendered to the board?—A. Which he has surrendered to the board.

Q. And the amount of the certificates which the board issued to him was not diminished by reason of any amount that might have been left in his hands or has since been retransferred to him in order to qualify him as an officer of Havemeyer & Co.?—A. It was not.

Q. Has any other change been made in the membership of this board other than the substitution of yourself for Hector C. Havemeyer?—A. No.

Q. The board was authorized to appoint a president, vice-president and treasurer. Has that been done?—A. I am very sure that Mr. Theodore A. Havemeyer has been made president; whether by appointment or just how I do not happen to recall. The matter has been very informal. Mr. John E. Searles, jr., has in a similar manner become the treasurer, it being necessary that somebody as treasurer should sign the certificates representing the stock in the several refineries.

Q. The vice-president's place has not been filled?—A. I was not aware that it was. I will accept Mr. Havemeyer's statement that F. O. Matthiessen is vice-president.

Q. The board was authorized to appoint a secretary. Has that been done?—A. I think that must have been done, although I do not remember of being present, because I know that Mr. Searles has been spoken of, in a general way, as secretary. I think when a meeting of the board is called the notice comes from John E. Searles, jr., secretary.

Q. Has the board created any committee, either formally or informally?—A. I think the board has subdivided itself into a body of its members—I being always excluded—who gave more attention to refining; and another body perhaps, which is called a committee, who give more attention to what is considered the mercantile business of sugar refining.

Q. Can you state to the committee how those committees are appointed; of whom they now consist?—A. I should say that Mr. H. O. Havemeyer was elected as a member of the mercantile committee, assuming that there is anything which justifies the use of that term.

By Mr. WILSON:

Q. Tell us a little more definitely what you mean by the "mercantile committee."—A. I will in one minute. I think that Theodore Havemeyer and others who are looked upon as refiners look rather to the refining interest.

Q. You are not a member of any committee yourself?—A. I am not. Now, in answer to the question that was addressed to me, I will say that I have had relation with sugar refining for quite a number of years, from the fact that many of these gentlemen have been my clients and I have some general ideas upon the subject. They enable me to give this answer to the question. The business of sugar refining is done at the refineries. It is an intricate, careful, exact, and thorough business, the prosperity of the project depending upon very close adherence to details. On the other hand, sugar is sold and sugar is bought, and that branch of the business is quite distinct from the business of actual refining, and that is called mercantile. Each department of the business looks to profit, if there is profit, and loss when loss comes. If sugar is bought or sold to a disadvantage, the loss may come either as a refining loss, or it may very easily come from a lack of capacity or failure to use the best appliances to make the cost as low as possible to produce the best results.

By Mr. BRECKENRIDGE:

Q. You are not as familiar with the details of the work of this committee as the gentlemen on the committee themselves?—A. I am not; I do not believe there is any formal distinction or organization. I have already stated that these gentlemen own a majority of the interests in these various corporations. Their place of business is within a few doors of each other, and they are in constant communication with each other. When they meet they talk, and in that way there is an exchange of views; that is the beginning and the end of the transaction of the business so far as I know.

By Mr. SMITH:

Q. Is this mercantile committee engaged in the purchasing of raw material?—A. No; the corporations buy their own raw material and sell their product; but on this mercantile committee are representatives of the several corporations. If Mr. H. O. Havemeyer were a member of the mercantile committee and was, as he is, the trustee and an officer of

the Havemeyers and Elder Sugar Refining Company, it would be very difficult to tell, when he bought sugar, whether he did it in his own capacity or did it for the company, as he buys and sells and has a large interest, I presume, in both capacities.

By the CHAIRMAN:

Q. So far as you know there has been no formal designation of the duties or prescribed powers of these several officers and committee?—A. None.

Q. You have not been called upon in your capacity as counsel or member of the board of trustees to prepare any such designation or prescription?—A. No, sir; the only occasion when the stockholders would have any action to take would be at the annual meetings of the various corporations. I think I ought to add this, that the annual meetings of several corporations have taken place since the 24th of October last—I know that is true of some of the Boston corporations; I think it is true of some of the New York corporations—and at these annual meetings the stock of the particular corporation was voted by the board. They are the owners of the stock who voted at that meeting.

Q. The owners of the stock who voted at that meeting were the representatives of this board?—A. They were the board.

Q. The board voted as a whole?—A. They are the stockholders of these various corporations, voting in that capacity. I do not know but what the president was obliged to cast the ballot or make the vote, but it was as the representative of stockholders holding all the stock of these corporations.

Q. And the person depositing that ballot was to represent the trustees created by this agreement?—A. Yes, sir; except that the trustees have no authority and the president had.

Q. The provision of this agreement is that "the capital stock of each corporation shall be transferred to the board, and in lieu of the same, certificates not exceeding fifty millions of dollars divided into five hundred thousand shares, each of one hundred dollars, shall be issued by the board and distributed as hereinafter provided;" in point of fact were such certificates prepared?—A. Yes, sir.

Q. Have you a form of one of them?—A. I have [handing the chairman a certificate].

Q. This is the form still in use?—A. This is the form still in use.

Q. I will call your attention to that which is printed on the top of this certificate, that "This certificate will be exchanged for the engraved certificate when ready."—A. I think the engraved certificates are not yet ready.

(Certificate referred to marked for identification "R. L. M., No. 2.)

TEMPORARY CERTIFICATE.

[This certificate will be exchanged for the engraved certificate when ready.]

SHARES ONE HUNDRED DOLLARS EACH.

No. 275.

_____ Shares.

THE SUGAR REFINERIES COMPANY.

This is to certify, that _____
is entitled to _____ shares of

THE SUGAR REFINERIES COMPANY.

This certificate is issued under and subject to the provisions of a Deed dated the sixteenth day of August, 1887.

The shares represented by this Certificate are transferable by the holder and his personal representatives, in person or by attorney, upon the books of the Board and not otherwise, and only upon the surrender of this Certificate.

They entitle the holder to the rights, and are subject to the provisions, mentioned in the Deed.

The interest of the holder is in the proportion of the number of Shares represented by this Certificate to the entire number of Shares outstanding. The total amount represented by outstanding Certificates, and the terms of the Deed, may be changed from time to time by a majority in interest, as therein provided.

In witness whereof, the Board has caused this Certificate to be signed by its President and Treasurer, and the seal of the Board to be affixed hereto, the _____ day of _____, 188 ..

_____, *President.* _____, *Treasurer.*

[Indorsement.]

For value received, _____ do hereby assign, transfer, and set over unto _____

_____ Shares of those represented by the within Certificate, and _____ do hereby constitute and appoint

_____ attorney, irrevocable, for _____ and in _____ name and stead to transfer the said shares upon the books kept for the purpose, under the direction of the within Board.

The Assignee, by accepting this transfer, assents to the terms of the Deed referred to in the Certificate as the same shall be changed from time to time.

Witness _____ hand and seal, this _____ day of _____, one thousand eight hundred and eighty _____.

Q. This agreement further provides that "the shares of the capital stock of the several corporations to be transferred to the board as herein provided shall be transferred to the names of the members of the board as trustees, to be held by them and by their successors as members of the board strictly as joint tenants;" was that the form of the assignment?—A. Yes, sir.

Q. Is it strictly pursued?—A. Yes, sir; all of these transfers ran to the eleven persons, the board, as you see, having no organization or entity at all, but the individuals being really the parties concerned.

Q. So that no portion of that stock was transferred to "The Sugar Refineries Company"?—A. Not at all; it is a mere name.

Q. Then the fact is that the "Sugar Refineries Company" is merely a name?—A. It is merely a name.

Q. And it is not a corporation under the laws of any State?—A. It is not. It is merely a name designated for convenience.

Q. On page 10 of this paper the amounts set opposite the names of the persons or corporations named there are omitted?—A. They are.

Q. The agreement provided for the issuing of certificates to the amount of \$50,000,000?—A. It did.

Q. Were certificates issued to that amount?—A. The deed also contains a provision of 15 per cent. of the authorized amount to be reserved. Certificates were therefore issued to the amount of \$50,000,000, less 15 per cent., and out of that 15 per cent. certificates were issued to the subsequent signers. So that in a general way the amount of outstanding certificates is about \$45,000,000.

Q. To-day?—A. To-day.

Q. Without going into the question here of the items on this page 10, can you tell us what the aggregate of those items amounted to?—A. About \$45,000,000.

Q. On this page 10?—A. I can tell you that exactly. The amount was \$50,000,000, less 15 per cent., which is \$42,500,000 in round numbers.

Q. The amount was distributed among the corporations named?—A. Not among the corporations, but among the persons interested.

Q. The provision of the agreement is that "the several corporations shall be entitled to the shares in the following proportions of the \$50,000,000." Then follows this list. I want to know what the aggregate, as it exists upon the original contract, is?—A. As near as may be \$42,500,000. If it had not been for the 15 per cent. reservation it would have been \$50,000,000. There may have been a little shortage.

Q. There is a provision following that, requiring the refineries and corporations to be freed from liability and indebtedness by the parties interested in it, or that those parties may provide in cash for such indebtedness or liability. Will you state, please, what was done under that provision of the agreement?—A. The transaction amounted, when we get right down to what is fundamental, to a purchase of the stock of each one of these corporations by the stockholders of that company and, of the others. Now, the value of that stock depends upon the question whether the corporations were or were not free from debt, and, therefore, as a condition of the instrument, it was required that the parties interested in each particular corporation should take care of the then existing indebtedness of the corporation, so that they could make a new departure from that time, and that has been done.

By Mr. BRECKENRIDGE:

Q. What was done with regard to a new departure and management? What was the thing to be done?—A. That the various corporations, after the date on which this arrangement took effect, should be freed from debt, because the stock of a particular corporation was worth more or less according to whether that corporation was or was not free from debt, and as the stockholders of each corporation were purchasing an interest in the stock of each other, inequality would have resulted if one corporation had been free from debt and the other not. It means free from indebtedness on all of the properties of these refineries.

By the CHAIRMAN:

Q. The question I put, which I think has not yet been answered, is, was the liability and indebtedness of these various persons liquidated

before these certificates were issued to them?—A. It was provided for, whether it was paid or was not.

Q. Was it provided for by the payment to the treasurer?—A. Not at all. Not by payment to the treasurer of this board.

Q. The provision is that they might provide in cash. It does not say how that provision is to be made?—A. I think that that referred to this subject. In addition to the plant of these various refineries which is supposed to be represented by the capitalization of these certificates, to carry on the business requires an enormous amount of money. I will not undertake to say what the amount may be, but an enormous amount. It was supposed at the time that it might be better, it might be wise at all events, to allow the indebtedness to stand, and to let the parties who were to provide for the indebtedness furnish cash against it, and then the corporations could have this cash with which to carry on the business.

Q. The cash, then, was not to be paid into the treasury of this trust, but was to remain in the treasury of the corporation?—A. To remain for the use of the corporation. There was no particular mode at that time projected or ever carried into effect. Now, what has occurred in regard to that matter is this: The parties interested in these various refineries have made their own arrangements to provide their own working capital, starting, to use a term which I previously used, as a new departure, on the 24th of October, and taking care of all indebtedness then pending. Now, there is to that this qualification; upon the property of some of these corporations there were mortgages. The amount was not very considerable; but in the same direction, to enable the corporations to use cash, instead of having those mortgages paid off, the amount represented by them was put up by the parties, who bound themselves to pay off these mortgages, and that has been available to the corporation for carrying on their business.

Q. Put up with whom, is the very point I want to get at?—A. Put up with me. [Laughter.] This is undoubtedly what you wish to know. Mr. George H. Moller, pending the investigation in New York, did something which rather pleased me. He was examined as a witness hostile to our interests. He was asked why he was willing to trust all the stock of his corporation to me and have nothing to show for it. He said he knew John E. Parsons, and knew where he was there would not be any cheating going on. The fact is there was a time when the stock of these corporations was in the control of myself.

The mortgages to which reference has been made represented a certain amount of cash. There is another provision in this paper that the common interest shall take care of certain pending contracts.

By Mr. BRECKINRIDGE:

Q. The mortgages, you say, represented a certain amount of cash?—A. Yes; they represented a certain amount of cash, for the reason that if they were paid off it took a certain amount of cash to pay them off, and if they were not paid off by the parties there would be a certain amount of cash in hand.

Q. That cash was presumed to be in your hands?—A. It was in my hands under these circumstances. There is another provision in this paper by which certain pending contracts by the Havemeyers and Elder Company, the Matthiessen and Weichers Company, and the Bay State Company were to be treated as incurred or paid subsequent to this business. The cash referred to, therefore, was used to provide those amounts so far as was requisite. The result, therefore, was that the

several corporations remained subject to their mortgages, but the cash equivalent of that amount has discharged this indebtedness; so that those corporations now stand with the benefit of these new contracts, enlargements for greater production, and the money has discharged the amount.

Q. It appears to be indicated that two applications were made of the same cash: One is that it liquidated a given amount of indebtedness, and the other is that it was available for each corporation to use in conducting its current affairs. Now, of course the same cash could not do both things.—A. There are two provisions upon the subject, each using the term "cash." They are distinct one from the other.

Q. I am only talking about the given item of cash as applied to a given corporation. You take any given corporation that may have been subjected to an indebtedness secured by mortgage of, say, \$100,000. Now, I would find it difficult to tell from what you have stated whether the \$100,000 which is provided by this association for that corporation was applied to liquidate the debt and lift the mortgage, or whether it was applied to the current business of buying and selling the manufactures of that corporation.—A. The former, not the latter. I think that if I illustrate you will see clearly how the thing was done.

Q. I am not so particular about the mode; I want to get at the fact.—A. I will tell you the fact. The property of the Havemeyers and Elder Sugar Refining Company was mortgaged. The members of that firm were compelled under the terms of this deed to pay it off. The members of that firm were entitled to receive a certain amount of money upon contracts for enlarged capacity which were then pending. Assuming the amounts to be the same, one would balance the other.

Q. They received a certain amount of money against large contracts for extended capacity?—A. Yes, sir; or improvements—extended capacity.

Q. That is to say, that certain parties gave a bond, a security for adding those improvements, which represented an asset that belonged to the corporation about equal to the mortgaged indebtedness that you speak of?—A. This projected improvement was being constructed at the time, and for the construction of it there was a contract upon which large payments had been made and other payments were to be made. It was an obligation.

Q. And you had security for the fulfillment of that obligation?—A. The security for the discharge of that provision, that is to say, that the indebtedness should be paid, consisted in the responsibility of the parties interested in these various refineries. May I say this in reference to this matter, that the board had no instrumentality at all. The board did nothing. Mr. Dos Passos and I were delegated to see that the money was received from the persons who were to put up the cash, and that the money went on these contracts. It was, in large part, an exchange of checks.

Q. You gentlemen should constitute a board that issued the certificates, as I understand it, so that each corporation came into this association, or its members, without any indebtedness still hanging over the corporation, I believe. That is true, is it not?—A. An examination of all the enormous properties of these various refineries was made under my direction by competent counsel, and a certificate was given whether there was or not any lien upon that property, and if there was a lien we notified the gentlemen interested that it must be discharged, and it was discharged, with the exception of these mortgages.

Q. That statement is entirely different from what you mean when you speak of a certificate of stock?—A. Yes, sir; I mean a lawyer's certificate that the title of the property is good.

Q. So that before they could deal with you or become parties with these gentlemen, this association, or whatever it may be called, they had to have their property in what may be called clean shape?—A. Yes, sir; before any stockholder of either of these corporations could get these certificates which represented their stock they were compelled to clean their property.

Q. Were there not instances in which this association of gentlemen that is known as the Sugar Refineries Company became possessors of the mortgages?—A. No, sir.

Q. And certificates of stock only issued for the resultant value of the property?—A. No, sir; those mortgages stand as liens against the property now, held by outsiders.

Q. They never have been paid off?—A. They have never been paid off. Assuming there was a mortgage of \$300,000, instead of using that money to pay off that amount it was used to discharge these contracts for constructions or improvements. It was paid to the corporation, and the corporation used it in that way.

By the CHAIRMAN:

Q. Now, under this agreement can you tell me who of the subscribers to this paper were found to have mortgaged property?—A. Yes, sir.

Q. State them, if you please.—A. There was a mortgage upon the property of the Havemeyers and Elder Sugar Refining Company. There was a mortgage upon the property of the De Castro and Donner Sugar Refining Company. I don't think there is any objection to having it stated that there was a mortgage upon the Havemeyers and Elder property. The members of the firm of Havemeyers and Elder, who were the owners of all the stock of that company, agreed that they would discharge their mortgage, and their obligation to that effect is perfectly good. They did put up the cash which represented it, and the same is true of the Donner and De Castro Sugar Refining Company. There may have been one other corporation upon whose property there was a mortgage. I think there was one other. I only recall one other, and I think that as that is one of the weaker bodies I will ask the chairman to excuse me from testifying as to that.

I hope the committee will abstain from asking me in regard to that subject. You can ascertain from an examination of the record whether anybody has a mortgage. The record discloses the fact that the property is under mortgage; but we know that a great many persons have property mortgaged and it is not known, and they do not like to have disclosed that their property is subject to mortgage.

Q. I will ask you simply this question, to which I think there can be no objection to your replying. That is to say, state whether there were any other properties owned by the subscribers to this paper that were found by your examination of the records to be subject to mortgage, and if so, state whose it was.—A. As to the general fact, I will state that there were. The details seem to me to be in the nature of private business. I prefer not to answer, and I take my position squarely and frankly in regard to the matter, although it would become disclosed if I undertook to testify about it; that the details I can not state.

Q. The question, then, so far as it relates to this, you decline to answer.—A. Yes, sir.

Mr. BRECKINRIDGE. Permit me to suggest, without forestalling any conclusion the committee may come to if it goes into conference on the subject, that I would not care to ask questions that have not a direct bearing upon the public policy of the business. I can understand that there might be some facts which simply relate to the private character and standing of the individuals who are associated, and concern nothing but their own properties. If that be the case, without, as I say, meaning to forestall any conclusion that the committee may come to if we take the matter into conference—go into executive session on the question—I suggest that we waive this kind of questions. I understand Mr. Parsons to admit all we asked as to certain companies.

The WITNESS. I have testified as to the firm of Havemeyers & Elder, and the Donnor and De Castro Company, and I said there was certainly one other.

Mr. BRECKINRIDGE. If the chairman thinks it is a matter of importance, I suggest that we go into executive session for a moment in order to settle the matter. I would not like to come to a conclusion without hearing discussed the matter objected to.

The CHAIRMAN. Whether it is a matter of importance or not we will probably have to decide if we go into executive session. A discussion of it now will be unprofitable.

The WITNESS. Until the committee instruct me to answer I will decline to answer. I wish to add to that this—the parties interested in this arrangement think they have everything to gain by the fullest examination into the character of the arrangement and everything concerning it which can bear upon legislation. The only line which they have drawn against investigation is as to matters which are purely private and can not affect legislation, and as to them they have thought the committee would not wish to ask. They have a right to decline to answer regarding those private matters. There is nothing else which it is not a pleasure and a desire for the gentlemen interested to answer. It is to the interest of all concerned to sell their sugar at as low a price as is consistent with a fair profit to them for refining sugar, and they think it is to their interest to give the committee information, because they believe that that information will lead to correct results in the matter under investigation.

By **Mr. SMITH:**

Q. You spoke about low price. Who is to be the judge of that?—
A. The judge of that in a large way is the consumer—not of the United States, which is a small place—but the consumer throughout the length and breadth of the world. The price is not fixed by the market of the United States. It is fixed by the market in Europe, and to determine whether the price of sugar here is high or low you must first ascertain what is the price in London, which boasts that the price there is lower than anywhere else. The price may be higher to-day than it was yesterday, or the day before, and yet it may be lower by comparison with the London standard.

Q. Do I understand that foreign countries, as nations, use more sugar than the United States?—**A.** Mr. Theodore Havemeyer has statistics upon that subject. I did not say that they used more, by which I mean and I suppose you mean per capita, but I believe that they do.

By **Mr. BRECKINRIDGE:**

Q. Is it not a fact that they do?

Mr. HAVEMEYER (interrupting). England uses 70 pounds of sugar per capita to the United States 50 pounds.

The WITNESS. The United States will use more if these gentlemen are permitted to continue this business, which is in the interest of the consumer, and make a fair profit out of it.

By Mr. SMITH:

Q. This committee is to take care of the American population. It has nothing to do with foreigners. The question is, who fixes the price in this country? All of us desire to regulate our own affairs.—**A.** We are compelled to recognize this as a commodity which is dealt in throughout the whole world, and therefore there must be a relation between the price here and the price in London, otherwise foreign sugar would come here.

Q. As I understand you, you say foreign sugar would come here? If protected by a high tariff how can it come here?—**A.** I expect that I am a very poor authority.

Q. It strikes you right home?—**A.** My ideas are somewhat vague and indefinite upon the subject; but I think, Mr. Smith, if you will look into the matter you will find that, quite aside from any tariff question, it is necessary for the American refiner to pay wages from 2 up to 3 and 4 times what are paid for cheap labor in Europe.

Q. That brings me right here to this question. In the reasons given in that deed for the formation of this combination, one reason you state is to furnish protection against unlawful combinations of labor. What do you mean by that?—**A.** I mean by that this: I do not mean strikes; I believe in strikes. I believe in giving to operatives the fullest right to combine for the protection of their interests; but I do not believe that it is lawful for the operatives of one railroad to combine by intimidation or violence to prevent the operatives of another railroad—

Q. I want you to confine yourself to the sugar business.—**A.** That deed was drawn after I had gone through an experience of the injury which results from the operatives of a railroad to the owners of the road by what I call an unlawful combination of labor.

Q. Is not this sugar combination engaged in a strike?—**A.** If you will permit me to answer, I will say "no." I think that when two persons become partners and combine their capital and capacity in a broad sense you may say that is a strike, because if the two persons are kept separate you have one competing against the other. I know of no law or public policy that forbids that sort of an arrangement.

Q. Who is to be the judge of this unlawful organization of labor?—**A.** The courts are, unless the parties agree.

Q. You claim that you have only got a name attached to you just for convenience sake; that is what you are sailing under?—**A.** Yes, sir.

Q. What are you going to do about it?—**A.** I can tell you what I am going to do about it. I am going to see whether sugar can not be furnished at a fair profit to the refiners, because business in the long run can not be carried on at a loss and yet have the price to the consumer lower and the rate of wages higher than under a losing arrangement, such as was done down to 1887.

Q. You claim that sugar is cheaper now than it has been heretofore?—**A.** If I am compelled to answer yes or no, I do, and yet the price is higher than it has been. I have all the prices here. In 1887 the price in London went up 1 cent a pound. The price under this arrangement, and as I believe due to this arrangement, only advanced half a cent, and subsequently that was reduced.

Q. If my memory serves me right, in the Territory of Wisconsin, when it was a Territory, we bought sugar cheaper at that time than we do now.—**A.** What was the price?

Q. I think it was 6 cents a pound.

Mr. SMITH. At that time we had no means of transportation.

The WITNESS. What year?

Mr. SMITH. 1845, 1846, and 1847, I think.

The WITNESS. I have a table here giving the prices from 1887 down, showing the steady diminution in price, everything else being equal, by the mere superiority of the American refiners, against the necessity of paying two or three times the rate for labor here that is paid in the continental countries of Europe and twice what is paid in England.

(At this point a recess was taken until 3.30 o'clock p. m.)

AFTER RECESS.

The committee resumed its session at 3.30 p. m.

The CHAIRMAN. Now, Mr. Parsons, to return to the subject we were inquiring about. After discussion with the committee they instruct me to repeat our former inquiry whether there were, as you recall it, any mortgages upon the property of any of the subscribers to this agreement, other than those you have named, at the time the stocks of the various corporations were turned over to the trust?—A. Rather than that any fact which the committee deem material shall seem to be withheld, I propose to answer the question. I do so on advisement with the Messrs. Havemeyer, whose interests are very large, retaining, however, the opinion I have expressed that it is a private matter, which can not aid legislation. I shall, therefore, answer not only upon information which I had when the question was put, but upon fuller information which I have received in the interval. The property of the Oxnard Brothers was subject to a mortgage; the property of Moller, Sierck & Co. was subject to a mortgage—the amount I do not recollect, but it was insignificant, and the same is true in regard to the Matthiessen and Weicher Company, which was small—I mean small by comparison with the value of the property.

Q. Are there any others?—A. Not that I know of.

Q. In each instance where there were these mortgages was the cash paid to you to pay them off; that is, the amount necessary to pay off these incumbrances?—A. The Oxnard arrangement was made without instrumentality on my part. Just how that was done I do not seem to recall. In the case of the Havemeyers and Elder Company and the Donner and De Castro Company the money came into the possession of Mr. Dos Passos and myself. The same is true of the Matthiessen and Weicher Sugar Refining Company and the Moller and Sierck Company.

Q. These payments were made, I take it, at or about the time that this arrangement went into effect—payments to you?—A. At or about that time. Not necessarily exactly at that time, because the parties interested in each case were assumed to be of such responsibility that the guaranty in the agreement could be relied upon, and the matter could be arranged at convenience. But it was about the time.

Q. Taking the Havemeyers and Elder case, what became of the fund paid to you to discharge the mortgage on their property?—A. The bulk, and perhaps the whole of it, went back to reimburse the payments made and provide for payments to be made upon pending contracts for construction or improvement.

Q. Were those the contracts referred to on page 11 of this agreement as being the contracts for improvements and enlargements, which were to continue as liabilities?—A. Yes, sir.

Q. The next case that you have spoken of in which there was such a payment was that of the Donner and De Castro Company?—**A.** Yes; and in the testimony which I have given as to the Havemeyers and Elder Company, I include the Donner and De Castro Company. I do not separate those interests because the parties concerned are largely the same, and the management is the same.

Q. So that the moneys received from the Havemeyers and Elder Company and from the Donner and De Castro Company were paid out indifferently for these improvements and enlargements on the property of one or the other company?—**A.** You are not quite accurate in saying money received from those companies. No money was received from those companies. The money came from parties interested under their guaranty.

Q. Still, moneys coming from stockholders of those companies were used indifferently for paying liabilities on these pending contracts referred to on page 11 of this agreement?—**A.** Yes, sir.

Q. Now, I understand you to say that the F. O. Matthiesen and Weicher's Company mortgage was also not paid off by you.—**A.** Yes, and what I have stated in reference to Havemeyers and Elder is true as to that company; that is, money was retained against a mortgage on the property of the company. There was a pending contract which under the deed was to be provided for.

Q. The Oxnard Company, of which you have spoken, also had a mortgage?—**A.** It did.

Q. And was the money to pay that provided by you?

(Mr. Havemeyer here leaned over and whispered something to the witness.)

The CHAIRMAN. Pardon me, Mr. Havemeyer.

Mr. HAVEMEYER. Excuse me, I only wanted to correct Mr. Parsons as to matters of which he does not know.

The WITNESS. It runs in my mind that there was a mortgage on the Oxnard Company. There was certain indebtedness in respect to that company which required that the parties interested should put up a certain amount of cash, but just how I do not recall.

Q. And what was done with the cash?—**A.** Have you any objection that I should ask Mr. Havemeyer? I do not believe that I can answer without refreshing my recollection.

The CHAIRMAN. There is no objection.

(After consultation with Mr. Havemeyer the witness answered the question as follows):

A. Mr. Havemeyer explains, and that recalls to me that the fact is so, that they put up the cash and paid off the mortgage themselves.

Q. That is, the Oxnard people, the owners of the stock of that company, discharged their own mortgage before the transfer to the trust?—**A.** Yes, before they received their certificates.

Q. What was the other company?—**A.** Moller and Sierck Company. They paid their money to Mr. Dos Passos and me, and it went into the fund, which was used in the manner described.

Q. Which was used in providing for these pending contracts for improvements and enlargements referred to on page 11?—**A.** Yes, sir.

Q. Was there another?—**A.** No, I think that was all.

Q. Upon page 11 there is this statement: "Annexed hereto are schedules in general terms of the properties of the several refineries." Those schedules are not attached to this copy?—**A.** They are not, and they are not attached to the original.

Q. Are such schedules in existence? Were such schedules made?—A. There were such schedules made. They were verified by persons designated for the purpose, and it having been ascertained that they corresponded they ceased to be of any importance. They were required for the purpose of assuring all parties interested that the property in fact corresponded with the assumed property.

Q. Were they schedules showing values or of property merely?—A. Property merely. Take, for example, the Havemeyers and Elder Company. The Havemeyers and Elder Company were possessed of several blocks of property in the eastern district of Brooklyn, with very important and valuable water privileges, and upon which were erected what I believe are the finest refining establishments in the world, and the most costly. There were diagrams of these supplied and a general statement of the improvements upon them, and parties who were not familiar with these properties had an opportunity of seeing whether the estimated property was really represented by the existing property, and that having been ascertained those schedules ceased to be of importance.

Q. And were not preserved?—A. I have no reason to suppose they do not exist somewhere.

Q. But not in connection with this deed?—A. No, sir.

Q. And they are not in your possession?—A. No; they have all gone through my possession, for the course of procedure was to place those schedules in my possession as being the principal counsel. I put them in the hands of subordinate lawyers, who examined the title to see not only that the property was there but free from lien and indebtedness.

Q. Who made the examination on behalf the signers of this agreement of the various properties referred to in those schedules?—A. I am very sure that Mr. Theodore A. Havemeyer was one. I think that Mr. Matthiessen was another. There very possibly were others, but if so their names have escaped me.

Q. Were not the gentlemen connected with the Boston and Maine refineries represented on the examining committees?—A. I know that Mr. Matthiessen and Mr. Havemeyer went to Boston to examine the Boston properties. Whether any of the Boston gentlemen examined the New York properties I do not happen to recall. The general situation, the general character, and the general extent and importance of these properties were known, and the parties interested would naturally take very much for granted that the property in fact corresponded with the statement. The Boston properties were not so well known in New York, and I know that New York parties did make an examination of them.

Q. Now, do you recall whether in any instance any deficiency was found in the property as scheduled?—A. Deficiencies of this kind were found. The examination of title revealed that there were apparent defects of title, and in all cases the parties interested in the particular refinery were called upon to remedy these defects, and they did.

Q. Were there any other deficiencies than those of defects in title?—A. There was no shortage of property that I recall.

Q. It is further provided that, upon the complete execution of the instrument, there should be made full inventories of the property not embraced in such schedules and useful for the conduct of the business on hand or contracted for, including raw and refined sugars, molasses, sugars in process, sirups etc. Were such inventories made?—A. I think so.

Q. Did they come under your observation?—A. Only in a very general

way. I was cognizant of the fact that such inventories were made. They may have been made very informally, but the results were reached.

Q. And there was a committee of five persons named in this agreement to examine and appraise the articles in such inventory?—A. So it provides.

Q. Were they in fact submitted to those five persons?—A. I think so.

Q. Do you know where the inventories are?—A. I do not. I suppose they are in New York, but in the possession of whom particularly I do not know, and in fact since they served their purpose I have no information or knowledge about them.

Q. It is further provided that the value of the property as thus inventoried and fixed by the appraisers should be paid for in cash by the board to the treasurer of each corporation. Was that done, Mr. Parsons?—A. No, that was not done.

Q. Was anything towards carrying out that covenant?—A. I can tell you what was done as I understand it, and if you permit me to ask Mr. Havemeyer I can refresh my recollection. (After consulting with Mr. Havemeyer.) What was done in respect to that was that each corporation took the property of that description and was charged with it.

Q. Charged how; charged in the books of this new association?—A. I do not believe that I can be very specific in testifying upon that subject.

Q. You have said it was charged; now charged as against what?

Mr. HAVEMEYER. Can I prompt him?

The CHAIRMAN. There is no objection.

Mr. HAVEMEYER. It was charged to the credit of the old stockholders.

Mr. PARSONS. The general idea was that each of these corporations should be balanced as of the time this agreement went into effect, and therefore the assets on hand were treated as belonging to the parties interested in the particular refineries as against the parties who from that time were interested in all the refineries.

C. Then the charge as made was made in the books of the separate corporations?—A. I do not know anything about the books.

Q. Has this trust any books?—A. None of which I know, except a certificate book and a transfer book.

Q. No set of cash-books?—A. The trust never has had any money that I know of, and from the arrangement it was not intended that it should have any money.

Q. It seems to me to have been an arrangement for it to pay some money?—A. Yes; and the matter of receiving and disbursing money was attended to by Mr. Dos Passos and myself.

Q. But here is a special provision by which this new combination contracts to pay cash for certain property?—A. The fact is that no money has been received or disbursed by the board unless you call that which I have explained in reference to the fund the receipt and disbursement of money.

Q. For the payment of mortgages?—A. Precisely. I may add to that, Mr. Chairman, this: The original arrangement contemplates some other things which have not been done. I think under the head of fiscal arrangements there was something which looked to the raising of money through the instrumentality of this board. Nothing of that kind has been done.

Q. It is also provided below here that in consideration of their transfer of stock to the board, the board shall pay to Havemeyer and Elder, the Matthieson and Weichers Company, and to the Bay State Sugar

Refining Company amounts which are left in blank and which are to be paid on pending contracts for improvements and enlargements?—A. Those are amounts as to which I have testified.

Q. Not as to liabilities which were to accrue, but payments which had already been made before this agreement was entered into. Were any such made?—A. Yes, sir. Upon those contracts payments had been made and payments were to be made; the parties concerned were to be reimbursed what had been paid up to that time, and what was to be expended in the future.

Q. Was that the fund which was put into your hands for the payment of the mortgages upon the property which either had already been paid or were to be thereafter paid?—A. Precisely. It has paid what has been expended and it has made payments upon expenditures later in date; but whether they were all discharged or not I do not know.

Q. The next provision I want to call your attention to is that—

Additional shares to the amount of \$400,000, less 15 per cent., to be left with the board, as hereinafter provided, shall be received by Moller, Sierck & Co. for improvements and enlargements of capacity of their refinery now in progress, when said improvements are completed and the increased capacity demonstrated.

The effect of that, I take it, is that these certificates, instead of being limited as originally provided to \$50,000,000, are to be increased to the extent of \$400,000?—A. No; I think I stated that there was some shortage of the \$42,500,000, and, including amounts from Moller, Sierck & Co., did include the total amount to be received from them, meaning the amount to which they would be entitled without this \$400,000.

Q. So that that is included in the \$42,500,000 issue?—A. Or whatever the amount may be; approximately that. Moller, Sierck & Co. were enlarging their capacity, and the valuation put upon them was upon the basis that the work was to be done, and they were required to demonstrate the additional capacity which that called for before they could obtain that additional amount of certificates.

Q. Then when this expression is used, "additional shares to the amount of \$400,000 shall be received by Moller, Sierck & Co.," it means in addition to those which Moller, Sierck & Co. were to have, according to the schedule on page 10, and not in addition to the amount of \$50,000,000, at which the amount of certificates was originally fixed?—A. Yes, sir.

Q. Has that \$400,000 been issued to Moller, Sierck & Co.?—A. (After consulting Mr. Havemeyer.) I learn that it has not been issued. Since the 24th of October, for a part or the whole of the time, the work to demonstrate the additional capacity of Moller, Sierck & Co. has been going on, and I was under the impression that it had reached or was nearing completion, but I learn from Mr. Havemeyer that it has not been completed. I would like to be permitted to add that one of the strictures put upon this arrangement is that one of the first results was to stop the works of Moller, Sierck & Co. Any stoppage there grew out of the fact that prior to this arrangement Moller, Sierck & Co. were arranging to enlarge their capacity, and that work has gone on precisely the same as if this arrangement had not taken place, and it all looks to an increased capacity and consequent increase, instead of limitation of production. It has also been stated, I think, that the result was to throw out of employment 600 operators. I believe the number employed by them was 60—a mistake only of 540 out of 600. It was stated in the testimony before the New York committee that other refineries, which under ordinary circumstances would have stopped, were continued, resulting in the employment of several thousand operators.

Q. There is also a provision here, Mr. Parsons, that—

Of the shares allotted to the several refineries they shall leave 15 per cent. with the board, and these shares and any shares not allotted of the \$50,000,000, except as herein otherwise provided, shall be subject to be disposed of by the board either for the acquisition of other refineries to become parties to this deed, payment for additional capacity or by appropriations to the several refineries.

Now, in fact, was this 15 per cent. of the \$50,000,000 retained?—A. It was.

Q. And what has since been done with that?—A. Out of that the stockholders of the four additional refineries have been provided for, and the residue, I suppose, remains on hand. Just exactly what the amount of the residue is I do not know.

Q. Can you state the aggregate amount paid to the four?—A. I can not. I am quite sure that it was very considerably less than the total reservation.

Q. Considerably less than 15 per cent.?—A. Yes, sir.

Q. It is further provided in this agreement that "the profits arising from the business of each corporation shall be paid over by it to the board hereby created." Has there been any payment made by any of these corporations to the board on account of profits?—A. There has not.

Q. And, of course, there have, therefore, been no dividends declared?—A. There have not.

Q. Has any account been rendered by these corporations or any of them to the board?—A. I think not; none that I am aware of.

Q. No account either of the money or the amount of business done by each corporation?—A. The only accounts of which I know, or of which I have ever heard, are sugar reports, which are transmitted by the several refineries to Mr. Searles, the secretary, and which are in a form that I have here for the service of the committee. [Handing forms to the chairman.]

The forms are as follows :

[Form No. 2.—Dec. '87]

A.

DAILY REPORT.

— 188—.

Barrels.	Production.	Sales.	Price.	Stock.
Cut loaf				
Crushed				
Powdered XXXX				
Powdered				
Mold A				
Cubes				
Granulated, std				
Granulated, fine				
Standard A				
Confectioners' A				
No. 1				
No. 2				
No. 3				
No. 4				
No. 5				
No. 6				
No. 7				
No. 8				
No. 9				
No. 10				
No. 11				
No. 12				
Strap				
Total				

TRUSTS.

[Form No. 1.—Dec. '87.]

A.

DAILY MELTINGS.

— 188—.

	Lot No.	Pounds.	Stock in tons.
Centrics.....			
Beets, 1sts.....			
Beets, 2ds.....			
Musco., 1sts.....			
Musco., 2ds.....			
Pernams.....			
Bahias, etc.....			
E. I., extra sup.....			
E. I., superior.....			
Molasses, foreign.....			
Molasses, domestic.....			
Total.....			

Q. These forms which you produce are the forms of daily reports, I think. Are they so denominated?—A. They are the forms of reports which are assumed to be daily, and in the main I think that they are sent in daily.

Q. To whom are they sent?—A. To Mr. Searles.

Q. Has Mr. Searles any office?—A. I do not think that he has an independent office. Mr. Searles is a member of one of these corporations.

Q. Which one?—A. The Havemeyer Sugar Refining Company.

Q. Where is the office of that company?—A. In Wall street.

Q. Can you give me the number?—A. No; but it is on the north side of Wall street, within a block or so of the Wall Street Ferry.

Q. And that is Mr. Searles's place of business?—A. That is his place of business—the Havemeyer Sugar Refining Company, and that is where he is to be found.

Q. And these reports, as you understand it, are sent there?—A. Yes, as I understand it, they are sent there.

Q. I think I will ask you to explain to us the meaning, if you can, of the headings there. One is called "Daily report," and the other "Daily meltings."—A. I think I can make the explanation, but Mr. Theodore A. Havemeyer can make it so much more intelligently that if the committee propose to examine him they would do better to wait and get the information from him.

The CHAIRMAN. All right.

Q. Of course, if you received no money and no profits, there were no dividends?—A. No money and no profits that I know of were received, and no dividends were made; that I do know. We are waiting and longing.

Q. Now, under the head of "Fiscal arrangements" here, it was provided that the funds necessary to enable the board to carry out the provisions of this agreement and make the payments required, should be raised by mortgage, or such other means as should be satisfactory to the board.—A. Might be raised.

Q. It reads:

The funds necessary to enable the said board to make the payments herein provided to be made by it, may be raised by mortgage to be made by the corporations or either, any, or all of them on their property, and by such other means as shall be satisfactory to such board.

I understand you to say no funds have been raised in any way.—A. Nothing whatever has been done under that provision, or will be.

Q. Has this company issued any bonds or evidence of indebtedness?

—A. It has not; by this company, you mean the board?

The CHAIRMAN. Yes.

A. It has not.

Q. There has been no increase or diminution of the number of these certificates as fixed by this board, has there?—A. None.

Q. I understand that the outstanding certificates at the present time are about forty-five millions.—A. Yes, sir.

Q. So there are about five millions yet in the treasury?—A. Yes; out of fifty millions there remain about five millions.

Q. Under the head of "Acquisition of other refineries," it is provided that—

The capital stock of other sugar refining companies and of companies whose business relates directly or indirectly to sugar refining (in every instance to be incorporated), may be transferred to said board with the consent of a majority thereof, at valuation and upon terms satisfactory to it.

Has any use been made of that authority?—A. Not to my knowledge, except in respect of the four additional signers—the one Saint Louis refinery, the Portland refinery, and the two New Orleans refineries.

Q. Were the valuations and terms upon which the stock of those refineries or those companies was turned over to this board fixed by this board?—A. I think that they were fixed by a majority in interest of the then certificate holders.

Q. They were not fixed, then, by the board?—A. I have no recollection that they were fixed by the board.

Q. As the result of formal action?—A. Not to my recollection.

Q. And did you take any part in any meeting of the board at which the question of valuation or terms in which those companies were to be permitted to unite with this union were fixed?—A. I think I was present at a meeting of the board when there was some conversation as to the value of these refineries, but whether exact figures were named, I do not recall.

Q. Did the board, so far as you know, cause any valuation to be made of the property of these four companies before admitting them to its arrangement?—A. Some examination—I do not know how formal—certainly was made; because I know that there was an examination of the title of the Portland Refinery and of the Saint Louis Refinery, and some examination in respect to the title of the two refineries in New Orleans; they may have furnished schedules, or they may have been taken for granted.

Q. But I inquire of your knowledge as to whether any such thing was done?—A. No; I have throughout taken the position that if these various parties were responsible, we could rely upon their statement that their property was equivalent to their schedules and was free of debt, and be saved any very exact examination.

Q. Do you know who conducted these examinations on behalf of your board—the financial part of it, I mean?—A. I know that Mr. Searles took some part—the details I cannot give you. I think that so far as the New Orleans refineries were concerned perhaps they had representatives in New York—I cannot give you their names—and there may have been general talk there.

Q. But you are unable to name any person connected with this board, except Mr. Searles, who took part in the negotiations relating to the

transfer of these companies?—A. I cannot remember the details. I remember that I knew about the matter, and my statement in reference to Mr. Searles is only from general impression. I never saw Mr. Searles act in reference to that matter.

Q. Do you know where Mr. Searles is now?—A. I presume he is in New York.

Q. His residence is in New York?—A. Yes; if you call Brooklyn New York. I think he resides in Brooklyn.

Q. Do you know where?—A. I do not, but I think he is to be found at his office—the office of the Havemeyer Sugar Refining Company.

Q. Mr. Parsons, as I understand this transaction with regard to these partnerships that were turned into corporations and whose stocks were then turned over to this trust, it amounted to this: That the individual co-partners transferred the properties to the corporations which they formed.—A. That is right.

Q. And took in payment for it the stock of the corporations?—A. That is so.

Q. There was no cash paid by the new corporation to the old partnership?—A. I think not. I do not think there was any case in which cash was paid.

Q. And then the stock of these companies was turned over to the directors under this agreement, and the certificates provided for by this agreement issued in lieu of that stock?—A. "Issued in lieu" is, perhaps, not the most suitable expression. They were issued against it to the persons who previously held the stock.

Q. That old stock has not been suppressed?—A. It is still outstanding.

Q. It is held by the directors or trustees?—A. Yes, under this agreement.

By Mr. WILSON:

Q. How was the value, or by whom was the value, fixed upon the property that belonged to individuals when it became a corporation?—A. The valuation of all of these properties was reached by agreement. Messrs. Havemeyers and Elder said, for example, "we value our property at such an amount," and provided the parties came to terms, certificates for the agreed amount were issued against the property.

Q. Then they agreed between and among themselves as to the amount of the value of all the property or properties put in?—A. Yes, sir.

Q. These properties that were already represented by corporations instead of companies—do you know whether there was any increase or decrease in their value as estimated when it was placed in the trust?—A. The properties were not assured at any time to have any relation whatever to the amount at which the particular company might be capitalized, because the scale might be different; what the parties were looking at was actual value. They paid no regard, therefore, to the capitalization of the companies, but to the actual value of the properties.

Q. Do you know whether the valuation of any of the companies was in excess of what it was capitalized for at the time?—A. I have no doubt that the valuation of the properties was in excess of the capitalization of the particular refining companies, because there was no object in excessive capitalization; and my experience is that these refining companies have kept their capitalization very low.

Q. All I wanted to know was when this agreement was formed and these several corporations became members of it, and when they changed the aggregate amount of their capital stock, whether it was placed in this

agreement at a greater amount than it had been prior to that time—A. No. The reverse was true in the case of the Donner and De Castro Company. The Donner and De Castro Company was originally capitalized at \$3,000,000, and I think that it was subsequently, and before this arrangement, reduced about \$1,500,000, and that was again reduced, to what amount I do not remember, at the time of this arrangement; but I know this, that the amount of capitalization of the several companies bears no relation whatever to the valuations of the properties, and was not treated by the parties in interest as a matter in which they were concerned at all. What they were looking at was the substantial value of the properties themselves, and it made no difference whether the Donner and De Castro Company, for instance, was capitalized at \$3,000,000 or \$300,000.

Q. The property then, in pursuance of this agreement, was actually estimated at the real value?—A. Consisting, however, as I understand, of two factors, one the actual cost, with a difference in favor of refineries able at the same expense to produce higher results, and the whole matter was eventually arranged by agreement.

May I say this. The charge has been made that this capitalization represents water. I think I know something upon the subject, and I think I am justified in saying that is not so. It represents actual value. I understand that it would require from 60 to 70 per cent. of this capitalization to produce this property, making no allowance whatever for patents and processes in use which have cost large sums of money, and for the good-will of these companies which represents a business capacity worth many millions of dollars.

By Mr. BRECKINRIDGE:

Q. Are the real estate and improvements now vested in the trust?—No, sir; no change whatever has been made. They remain vested in the corporations, and the business is carried on by them.

Q. Is there any of this stock thrown on the market?—A. The newspapers say so. I have no knowledge about it. I never happened to meet anybody who had ever sold or bought any. If the question asks whether one object was to make these certificates a subject of sale, I am very well satisfied that that is not so. And yet I presume if any member of the committee would like to have one or more of these shares and would pay satisfactory prices perhaps they could be supplied.

Q. But the trust not being incorporated, how could that stock be thrown on the market by parties holding it outside of this combination?—A. There are several thousand persons who own these certificates. It does not require a corporation to own them any more than it requires a corporation to hold the stock of the Pennsylvania Railroad Company. On the contrary, the law in many States forbids ownership of stock by corporations. Individuals own this stock.

Q. But railroads are incorporated, and this institution is not incorporated. It is outside the pale of law, as I understand it?—A. It is a mere convenient designation. You might say Mr. A, Mr. B, Mr. C, and so go through the eleven names, and use their names for the ownership of this stock and the persons who issued these certificates. As a matter of convenience a name has been adopted, and they issue them with Mr. Havemeyers as president and Mr. Searles as treasurer.

By Mr. WILSON:

Q. Suppose one of these corporations desires to withdraw, what is the modus?—A. There is no association in which there is a corporation.

That is just the point which I hope the committee will understand, and that I may make clear.

Q. I am speaking now of this voluntary association composed of corporations?—A. No, sir; composed of individual stockholders. A stockholder who has sold his stock and received these certificates could no more withdraw than you could withdraw if you sold your railroad stock one day at fifty and it went up to a hundred the next day. You could not withdraw and get that price.

Q. How are you going to enforce that?—A. There is nothing to enforce.

Q. You say we must stand by it—how?—A. If you had been a stockholder in the Donner and De Castro Company, and had given me your stock, and had received in place of it the certificates, it would not require me to make you stand by it. The courts would compel you to. Honesty and fairness would require you to stand by it.

Q. But you are not incorporated?—A. No, we are not incorporated.

Q. It is a good deal like the wild-cat banks out West.—A. No, sir; there is nothing wild cat about it. It all comes right down to the question whether a stockholder is to be permitted to own stock in several corporations, or is to be limited to one. The stockholders in these corporations own the stock in several refineries. That is all about it. I do not know any law or any public policy against it.

By Mr. BYNUM:

Q. And yet no books and no accounts are kept with these several corporations, and no dividends are declared?—A. I have not stated that. The corporations conduct their business precisely the same as before.

Q. Is there no account kept of the business of these several companies as an aggregate body?—A. I think if profits had been made so that earnings had come to this board, it would have been necessary for accounts of receipts and disbursements to have been kept.

Q. Are there any accounts kept by this company of individuals or association formed by this agreement by which you can tell whether there have been any profits or not?—A. No. Again I fear that I do not make the situation clear. This board do not carry on any business. When a refinery has made profits they will turn over the dividend, and instead of its being distributed piecemeal to each holder of these certificates it will be aggregated with the returns from the other refineries and distributed to the whole number of certificate holders.

By Mr. WILSON:

Q. In other words, when the period at which you see that you can declare dividends arrives, if one of these companies reports that it has made a dividend equivalent to 10 per cent. on the stock of that company, and another one reports that it has run at a loss, this board is to equalize them and put them on the same footing?—A. In fact, yes; a sugar refinery which is deemed to have run at a loss is to go on until it makes up that loss.

Q. These companies have not declared any dividends—these corporations, I mean?—A. They have not.

Q. They employ their own officers?—A. They employ their own officers.

Q. And pay their own salaries?—A. Yes; and all other expenses.

Q. Over that subject you exercise no control as directors and trustees?—A. None whatever; the board possesses this control, that if at

the end of the current year they are dissatisfied with the situation, they can remove the officers of the particular corporations and put in others.

Q. Then, if the officers of one of these corporations should conclude not to do any business at all and shut up its refinery, there is nothing to prevent the persons who hold certificates of stock which that company has surrendered from sharing in the dividends declared by the trust from the earnings of the other companies?—A. That is so.

Q. Has this body of trustees ever formally or informally assumed to control or contract the business of any one of the corporations whose stock they held?—A. Not to my knowledge, and I am very well satisfied that the fact is not so; that the corporations have gone on with their business independently, as provided in the deed.

Q. And there is no method provided by this instrument or any other by which the directors under this trust agreement could interfere with the management of any one of these single corporations, except as it might at the next annual election change the officers of the corporation.—A. That is the beginning and end of it.

By Mr. HERMANN:

Q. They could not compel a corporation to shut down?—A. That is a fine point of law. My opinion is no, and yet if the stockholders of a corporation unanimously found that the officers were doing their business in fraud of the rights of the stockholders the courts would give them redress.

Q. That redress would come through the equity power of the court and not *ex contractu*?—A. That is so.

Q. Does the board assume to limit the production of any of these corporations?—A. Not to my knowledge.

Q. You believe that they have never attempted anything of that kind?—A. Not by the action of the board, so far as I know and so far as I believe, but you must always bear in mind that the members of this board represent vast interests in the properties of these companies. They meet each other frequently, and I have no doubt that each one has a tolerable idea of the views of the others, and I take it for granted that the officers of these stock corporations would rather adapt themselves to the interests of the several corporations than go against them.

By Mr. BEECKINRIDGE:

Q. Mr. Parsons, this company or board now holds all the stock of these corporations?—A. It does, less the shares which qualify trustees.

Q. That is nominal?—A. Inconsiderable.

Q. The full voting power, therefore, as respects the direction of affairs in any one of these corporations, rests with this board?—A. The whole voting power at stockholders' meetings rests with this board.

Q. That is what I mean. Therefore this board has all the authority and control over these corporations that stockholders possess over any corporation?—A. Just that.

Q. Have any of these refineries been closed up since this association was formed?—A. Mr. Theodore Havemeyer can give you more exact information about that than I can. The North River Refining Company I know to have been closed. I know that the Moller, Sierck & Co. refinery has been closed pending the improvements to which reference has been made, and for the same reason the Oxnard refinery has been temporarily closed.

Q. That is as far as you know?—A. That is as far as I know. I ought to make this addition. I can not testify as to the Boston refineries. As to them I do not happen to know or to have heard.

Q. Mr. Havemeyer is better informed on that question than yourself?
—A. He is.

Mr. BRECKINRIDGE. I will then pass that over.

Q. The only way, then, that this association can give force and effect to any policy that it may agree upon is the way that would ordinarily obtain to a majority of stockholders?—A. That is it.

Q. You have this board divided into a refining committee and a mercantile committee, I believe you stated?

The WITNESS. Kindly repeat that question.

Q. This board is subdivided into committees, is it not?—A. Not exactly that, for I am a member of the board, but not a member of a committee; but there is a committee called the mercantile committee and one called the refining committee. How formal the organization may be I do not know; but I do know that there is no specification of their duties.

Q. You are not a member of either committee?—A. No, sir.

Q. You are not able, therefore, to tell what are the peculiar functions of these committees?—A. Except as their designations imply, that one has reference to refining and the other to money matters. By money matters I mean anything which is mercantile as contradistinguished from operative.

Q. Do you mean by money matters the granting of credits to their customers?—A. No; I think every corporation is entirely independent in reference to credit.

Q. You stated awhile ago that the association does not regulate the wages to superintendents and employes of the respective corporations.—A. Each regulates its own internal affairs.

Q. Therefore you do not mean by money matters either the expenses of the corporation or its mercantile credits?—A. No; I do not.

Q. What other mercantile matters remain—or money matters—that they can regulate?—A. Well, I am pretty ignorant about that matter, Mr. Breckinridge.

Q. I take you to be pretty well informed about money matters.—A. I do not mean to disavow any knowledge that I have, and I am going to see if I can not rake up some information upon this subject, but as I have never had anything reported to me on this subject, you can see that any information I have must be meager. (After a pause.) I can surmise that on the question of whether it was desirable to reduce time, production, if you please, by which I mean the volume of refining, that subject might be considered by the refining committee.

Q. I am not talking about the refining committee. I am talking about money matters.—A. I think you had better examine somebody who belongs to that committee. One is here, Mr. Havemeyer, and he can tell you all about it.

Q. Very well, sir. You stated, Mr. Parsons, that the committee about which we were not talking, the committee on refining, might regulate the running of establishments, or the output of establishments. That, of course, involves the question of what are known as shut-downs, or lockouts, does it not?—A. Possibly.

Q. If you quit running, you shut down.—A. Possibly; I am not prepared to say that this committee can regulate anything.

Q. They have all the power which a stockholder has over all these concerns?—A. Precisely that; I think if they had a certain view, that they would indicate that to the officers of the corporation, and that might relate to the matter of what you call shutting down or what you may.

Q. Or lockout?—A. I have never heard that word used in connection with sugar refining.

Mr. BRECKINRIDGE. I have.

The WITNESS. We keep men of long experience in. It is equally to the advantage of the refiners and the operators. It was testified before the Senate committee in New York that one of these refineries, which for some reason was not working, was continuing 2,000 men under pay.

Q. That was very charitable in them.—A. Not charitable, but business, and business on legitimate principles and prompted by intelligent recognition of the situation and capacity to meet it.

Q. I do not blame them for doing what they believed to be profitable. Of course, a lockout does not obtain with an institution that does not lock out. Those that still run or pay wages do not practically lock out anybody. You speak of sugar having gone up a cent in London recently?—A. Subsequently to November last. There has since been a decline there, and in larger proportion here.

Q. You stated that the advance in this country was only half a cent?—A. The advance in this country was less in proportion than in London.

Q. Half a cent, I think, was the expression you used.—A. Yes, I think I said half a cent.

Q. You also stated that if it had not been for this trust the advance would have been greater. That is merely a matter of fact—you stated that. What I would like you to explain as relating to the effect an organization of this kind may have upon the public and public interests is why, when sugar could have advanced more than it did, it did not advance.—A. Because the practical result of the aggregation of capital which this arrangement represents is to enable the parties concerned to conduct their business in a steady, as against doing it in an irregular, way. I understand that from November until March the Louisiana crop of sugar is refined and goes into direct consumption. I understand that heretofore during that period it was necessary that the Eastern and Northern refineries—I mean the refineries outside of Louisiana—should either shut down—what you call lock out—or should reduce either the time or number of their employes by from 25 to 33 per cent., as the case might be, because they could not compete with the production in Louisiana during that period. The result of this arrangement, as I understand, is that as the production can be regulated and graduated during a long period, the business can be conducted in a steady way and kept going.

Q. May I understand, then, from your present reply that the limited advance was due to the large output from Louisiana?—A. I have not said so, and I do not know that that is the fact. Yet the fact is, as I stated, that while the advance in London was one cent, here it was but half a cent.

Q. You brought in Louisiana, and if you do not mean that the marketing of the Louisiana crop at this time in the autumn limited the advance in price, what did you mean by bringing in the State of Louisiana?—A. As I understand it, under an arrangement which is not steady as this is, the refiners might take advantage of every occasional opportunity to run up the price to the highest possible figure and then wait until forced down. An advance of one cent in London, for instance, would furnish an occasion for advances here. Now, I understand that these people are not looking for temporary advances to-day or to-morrow, but a steady business, and they can keep the prices free from fluctuations which otherwise would exist, and that it was not necessary that the prices here should advance up to the London advance.

Q. You have not explained where Louisiana came in.—A. As I understand it, but for this arrangement Louisiana would demoralize the market here.

Q. Make it lower, you mean, by demoralization?—A. Yes, and shut up the refineries more or less. Now, I am giving you the best information I have on the subject, but I am not a sugar refiner.

Q. I think you are a very intelligent and well-informed witness, Mr. Parsons.—A. I am giving the best information I can.

Q. I think you understand the theory of this business about as well as anybody I have met.—A. I think that a great many factors come into the question of fixing the price here at that season of the year. One is the fact that the Louisiana crop is being harvested. The question of the high rate of labor here by contrast with the cheap pauper labor in other parts of the world is another. The question of tariff is a matter for very important consideration. As I understand it, the present tariff really discriminates against this American industry, the rate on low-grade sugar being higher than on refined grades, thus extending a premium really to the foreign refiners to come into competition with our refiners. Now all these circumstances are taken into consideration by those competent to deal with them and able to construct prices. If it were a question of my fixing the price, I would not know where to strike between 5 and 10 cents a pound.

Q. Is that your reply to the question in reference to Louisiana?—A. I do not know that Louisiana has any direct bearing upon the accidental fact that sugar in London advanced and subsequently declined and advanced here less pro rata than in London. The circumstance is material as showing that there, where there is no such arrangement, prices advanced more than here, where such an arrangement does exist, which is assumed to affect injuriously the consumer.

Q. You introduced Louisiana?—A. I have given you the best explanation I can in relation to this business.

Q. You will pardon me if I fail to see any revelancy in the subsequent proceedings.—A. I merely answered to the best of my ability and will let the answers carry their own responsibility. But this I do know, that if you were a Northern sugar-refiner you would dread that period from November to March, when the sugar of Louisiana was being turned out by their refineries into direct consumption.

Q. Why?—A. Because it would compel your either closing up altogether during that period, or making a large diminution in the time or number of your operatives, which means that the business here could not be done at a profit, but only at a loss.

Q. Then the effect of the marketing of the Louisiana crop was to lower and not to advance the price last November?—A. Everything else being equal, yes. There being no other considerations to regard, yes.

Q. You had previously stated that when the Louisiana crop was coming into the market, if it had not been for the sugar trust the price would have advanced to approximately the full cent it did advance in London?—A. I think perhaps I did not put it in those words or in that shape. What I mean is that the effect of this arrangement is that you can steady the market, and therefore there is no occasion to take advantage of a rise in London, and enables you to do a better business and to extend your market over the dull period.

Q. Will you permit me, as you seem to have studied that pretty carefully, to ask you how the trust can keep the marketing of the Louisiana crop from affecting the price and can prevent the shutting up of these

refineries?—A. As I understand, there are a vast number of refineries in Louisiana carrying on business on a small scale and bringing their product into immediate consumption.

Q. Is that the explanation?—A. I did not intend it as an explanation, but as an answer to the suggestion made by one member of the committee which I understood to mean that there were no Louisiana sugar refineries.

Q. Will you proceed to the explanation?—A. I can add nothing to what I have said.

Q. And that, you say, you did not intend as an explanation?—A. I do not mean what I stated just now, but all that I have said on the question; but there are gentlemen here who are thoroughly competent to give you the explanation.

Q. You had laid emphasis on the point that you *did* know that; therefore, I thought you prepared to give an explanation. However, we will pass on. What is the effect of this sugar trust upon the wages of men who are employed by the refineries belonging to the trust?—A. The highest rate of wages we have paid has been retained.

Q. Has there been any advance?—A. The rate has remained as it was before the formation of the trust.

Q. There has been, then, no change in the rate of wages?—A. No, sir; no change.

Q. The certificate that you produced referred to the books of the company?—A. Yes, sir.

Q. Will you please state exactly what are those books?—A. They are the books I previously mentioned, a certificate book and a transfer book.

Q. That is all?—A. That is all.

Q. The trust keeps no other books?—A. Not that I know of, and I am satisfied there are no others.

Q. Has the trust an office in New York or elsewhere?—A. No.

Q. Where are those books kept?—A. I think that they have been somewhat migratory. They have been at my office at times, because I checked these certificates and they were there for the purpose, but unless for some special reason they were elsewhere. I think Mr. Searles would have them.

Q. The trust, then, has no fixed place of meeting and no fixed place for conference?—A. No designated place. I think at present it meets more frequently at the office of Havemeyers & Elder than elsewhere, because they are the largest established refiners and have a convenient office.

Q. Can a corporation that has passed its stock over to the gentlemen composing this trust declare a dividend out of its earnings?—A. Each one of these corporations can declare a dividend of its earnings.

Q. How so?—A. Like any other corporation.

Q. Does not that stock all belong to the trust?—A. The organization of the corporation is such that the stock does not belong to the corporation. The stock of the Pennsylvania Railroad Company, for instance, does not belong to the railroad.

Q. The officers of a company, as I understand, would declare a dividend, and not the stockholders?—A. Yes; the officers would declare the dividend and then it would be payable to the stockholders.

Q. Would that dividend be payable to the holders of that particular stock?—A. If any one of these corporations declared a dividend, that dividend with the dividend of other corporations would be distributed to the members through this board.

Q. It becomes a common fund?—A. Yes, sir.

Q. You stated, I believe, that you had a table of prices of sugar for quite a period in the past. Have you that table with you?—A. I have here a table of prices of raw sugar for each month, commencing with 1885, and continuing down to 1888. It was furnished by the editor of the Commercial Bulletin, a New York business publication, to the investigating committee of the senate of New York, and I have knowledge of the fact that in 1887 refined sugar, meaning granulated, sold at \$10.89 a hundred, and that the price has steadily reduced down to 1887, but the price at each successive stage during that period I cannot give.

Q. This is for 1885, 1886, 1887, and 1888?—A. It shows, as you will observe, that the price of raw sugar advanced subsequently to the formation of the trust.

Q. These prices are limited, I believe, to this country?—A. Yes, sir.

Q. You have no comparative prices between this country and other countries?—A. Those prices exist. I do not know that I have them.

Q. This is only on raw sugar?—A. Yes, sir.

Q. You do not sell raw sugar?—A. No.

Q. Therefore you are only interested then in the decline of raw sugar and the advance of refined sugar?—A. Of course, if we could get raw sugar for nothing and sell the refined sugar at a high price it would be to our advantage. But these matters are in the control of other parties. Raw sugars exist all over the world. We do not control that. Even in this country outside of this arrangement is a large output, and any attempt at an excessive price would bring into the field innumerable other refineries.

Q. How long would it take to construct a refinery?—A. The newspapers say that Mr. Claus Spreckles, of California, is here to construct a refinery in competition to those refineries. They have stated that he proposes to put \$15,000,000 in the venture; later, that he proposes to put five millions, and another statement that he proposes to make a combination of forty millions, and I think in connection with those statements it has been asserted that a refinery could be constructed in something less than a year.

Q. What per cent. of the present refining capacity of the country is in this association? I do not mean to include the sugar planters—the sugar-houses on the plantations in Louisiana.—A. And you do not mean what are called molasses refineries, of which, as I understand, there are a large proportion.

Q. No.—A. It has been stated, as I believe the fact to be, that the refineries represented in this arrangement represented about two-thirds of the entire product.

Q. The entire capacity?—A. Yes.

Q. Exclusive of plantation refining?—A. Yes.

Q. You have alluded several times, Mr. Parsons, to the fluctuating character of sugar production and of sugar refining. If sugar declines in London does it necessarily decline in this country?—A. Everything else being equal, yes sir, as I understand it.

Q. But supposing everything else is not equal?—A. There might be disturbing causes affecting the price.

Q. Such as what?—A. I do not think I can answer that. How can I tell? I can guess; but I would not have much more confidence in my guesses than in yours, Mr. Breckinridge.

Q. I am not speaking of temporary differences in prices?—A. Then there is no such thing as an advance, because the price of sugar has steadily declined all the time.

Q. Do I understand you to say that the price of refined sugar is the same here as in London, except the differences caused by freight, etc. ?—
A. No, I have not said that, and about that subject I am really incompetent to testify.

By the **CHAIRMAN** :

Q. Mr. Parsons, in executive meeting the committee have agreed that it is necessary, in connection with the other proof here, that I should ask you to furnish the information necessary to fill up the blank spaces which have been left in this copy. Without insisting upon the production of the original instrument, and its being left here with it, we feel that the copy which we have should be made perfect.

It has now reached so late an hour that, with the consent of the committee we will adjourn the hearing, leaving that suggestion to your reflection, Mr. Parsons.

The committee thereupon adjourned until 11 a. m., Friday, March 9.

WASHINGTON, *Friday, March 9, 1888.*

The committee met pursuant to adjournment, at 11 o'clock a. m.

TESTIMONY OF MR. PARSONS—Continued.

The **CHAIRMAN**. I observe in the testimony of Mr. Henry O. Havemeyer, as given before the committee of the senate of New York, that he states that this deed which he was examined about at that time had been changed once or twice. I understood you to testify yesterday that there had been no change in the instrument since its signature.

The **WITNESS**. Mr. Havemeyer, according to my recollection, testified that it had been so changed as to permit, first the Maine refinery and then the Saint Louis and the New Orleans refineries to become parties. And you will notice an appendix to that effect.

Q. The only change, then, is the appendix, which is signed by those refineries ?—**A.** The only change that I recall is a change permitting those refineries to become parties.

Q. Is that provided for on page 15, under the head of "Acquisition of other property ?"—**A.** Yes. You will observe, Mr. Chairman, that that clause contemplated that the stock of other refineries might be acquired by the action of the board, or a consent of a majority of the board. The change consists in requiring the consent of a majority of the stockholders, and any other changes are merely papers signed by a majority of the stockholders authorizing those refineries to become members.

Q. That change, then, is contained in another subsequently executed paper ?—**A.** That is my impression. This I can state without any question, that no change has been made which affects the tenor of the deed ; nothing more than a paper which requires the consent of a majority of the stockholders to the admission of these other refineries.

Q. And there is no instrument varying or curtailing the authority of the board as expressed in this deed executed by the parties to this instrument ?—**A.** None.

Q. In the course of the investigation yesterday, I think I asked you whether there was anything which restrained the officers of these sev-

eral corporations, elected by this board as a stockholder of the corporation, from exercising all powers and conducting the management of the several corporations, and even though their methods might not be acceptable to the board; and I understood you to say that there was nothing expressed in the paper to prevent their doing that, but that in your opinion their legal duty was to conform to the wishes of the stockholders?—A. Probably what I said was substantially what you embody in your question. To be a little more accurate, I think I must have said that the board as the owners of the stock of the several corporations have all the authority which belongs to stockholders; no less, no more; and that that authority could only be legally exercised at an annual meeting of stockholders, and that the only mode in which it could be exercised was to displace the officers at an annual meeting.

Q. According to my recollection you also stated that in your opinion the board would have the right to apply to the courts for the correction of any course of action which was detrimental to the interests of the company on the part of its officers?—A. That is my opinion.

Q. And by that you mean they would have the same authority that any other stockholders would have to go into a court of equity to restrain officers from such course of action as in the judgment of the stockholders would be detrimental to the interests of the stockholders?—A. Precisely that.

Q. But no more than any ordinary stockholder?—A. Precisely; no more, no less.

By Mr. HOPKINS:

Q. In your opinion has the price of sugar been increased by the creation of this so-called trust or not, as a lawyer?—A. In my opinion, referring to myself as a lawyer and as a member of this board, the price of sugar has not been increased by this arrangement, or as the result of this arrangement.

By Mr. BRECKINRIDGE:

Q. Some of the refineries embraced in this association have, I believe, been acquired by purchase by the association, have they not?—A. No.

Q. None, whatever?—A. None, whatever.

Q. Have they not been acquired by members of the association by purchase?—A. No. Mr. Breckinridge, do not let us misunderstand. The stock of refinery corporations has been acquired by the members of this board. I understand you to discriminate between the stock of corporations and stock which does not belong to corporations.

Q. My impression is that if you own all of the stock of a refinery, and there is no other evidence of title except that stock, the refinery being a corporation, you own the refinery.—A. As a practical question, that is so. As a legal question, the fact is exactly the reverse.

Q. Well, the practical question is as far as I care to go.—A. As a practical question, the stockholders own the property of the corporation. As a legal question, they have no legal interest in the property. It belongs to the corporation.

Q. It is the practical part of it I want to get at. I am not speaking of any legal questions that might arise in certain contingencies. But the gentlemen who compose this association, as I understand it, have acquired the stock of some refineries, which stock they did not possess before they formed themselves into this association.—A. They did not exist.

Q. The refineries?—A. The gentlemen whom you speak of as an association did not exist before this arrangement.

Q. The gentlemen existed.—A. Yes, they did; but not in the associated form to which you allude to them.

Q. I did not say they did. That was not my question.—A. Perhaps I misapprehended the question. Will you kindly put it again?

Q. It seems to me to be a very plain question. I am not particularly expert in putting questions, being only a business man, but it seems to me like an ordinary business question. Have not these gentlemen who compose this association, all of them or some of them, acquired stock of some sugar refineries, one or more, that these gentlemen did not possess before they went into this association?—A. Yes, if you allude to the eleven persons who compose this board.

Q. Of course, that is what I am talking about.—A. And there are sugar refineries whose stock now belongs to them, in which refineries not one of them was interested before this arrangement. Does that meet your purpose?

Q. That is precisely what I am trying to get at. They having acquired this stock, the parties who owned the stock prior to its acquisition are, I suppose, not members of this association?—A. They are persons other than the eleven gentlemen spoken of.

Q. And are not of that eleven now?—A. They are not of that eleven now.

Q. Why did these gentlemen prefer to acquire that stock rather than to take the gentlemen from whom they bought their stock into their association?—A. Because they are but eleven in number and the stockholders of these various other companies may be five or six hundred, and a body consisting of six hundred is an unmanageable body, but according to our arrangement they are represented by a limited number, and that limited number in this case is eleven. These eleven gentlemen represent not only their own interests, which are large, but the interests of all the others.

Q. Do I understand, then, that these purchases were made solely because of the desire to keep down the number of the association? That is, you made the purchases in preference to permitting others to come into the association on the basis of their property?—A. Mr. Breckinridge, I am apprehensive that you do not understand the matter as I do, and I think the difficulty comes from the fact that perhaps I as a lawyer am compelled to answer with reference to legal distinctions to which you do not attach importance.

Q. I am simply trying to get at a few facts, not opinions?—A. I think I know what you mean, and I will state it according to your assumption.

Q. I am not proceeding under an assumption, but simply asking a question, which I will still try to make plain, and I will state the case in this way to make it plainer than the previous statement. Here is an association composed of eleven gentlemen. They are the owners of the stocks of sundry sugar refineries. Some of these refineries these gentlemen owned before they formed this association, and before perhaps they thought of forming this association; or, rather, to speak with perfect accuracy, owned some of the stock of some of the refineries. Since they formed this association, or since they thought of forming the association, these gentlemen have acquired at least the control of the stock of some refineries that they did not own the controlling amount of stock of before this period.—A. The statement which you have made is literally true and exactly according to the fact.

Q. That is what I have been trying to get at.—A. You may go one step further. All the stock of these additional refineries is now owned by members of this board—not a controlling interest, but all the stock.

Q. Now I ask why these gentlemen bought the controlling, or as you state the entire, amount of the stock of these to them additional refineries, instead of increasing the number of the association by admitting into the association those from whom they bought the stock? That is a plain question, is it not?—A. Perfectly plain. For the same reason that the number fixed was eleven, which is a convenient number, and all the persons interested were satisfied that the number should be eleven, and that they should be represented by these gentlemen rather than that they should have a representation themselves.

Q. Do I understand you to say that these gentlemen represent stock that they do not own?—A. Why, certainly.

Q. They do represent a large amount of stock that they do not own?—A. Certainly; they represent the stock of these refineries. They own a considerable proportion of it, but by no means all.

Q. Do these eleven gentlemen constitute the whole number of the association known as the Sugar Trust?

Mr. HOPKINS. I object.

The CHAIRMAN. There is no objection which can prevent any member of the committee asking any question he pleases.

The WITNESS. I am perfectly willing to answer the question.

Mr. BRECKINRIDGE. No, the question is objected to, and I will let it pass.

Q. These gentlemen represent a good deal of stock now which, unless it had been acquired since the formation of this trust by themselves or by a recent purchase, they would not represent, as I understand?—A. That is right.

Q. Now, has any part of this stock which has been purchased been acquired substantially—I mean where it is a controlling amount of the stock of the given refinery—has it been acquired substantially in block from one man or one or two men?—A. It has been acquired by a transfer from all the stockholders of the corporations as part of one transaction, which I suppose is what you mean by saying in block, but it is not in block, because it comes from individuals.

Q. No; that is not what I mean. If you were to acquire stock in small amounts for a number of stockholders, and in that way have gotten together the entire amount of stock, you would have brought it into block, but you would not have found it in block. You would have found it dispersed. Has there been any instance where you have found it in block, massed into the hands of one holder, for instance?—A. Not at all. The stock has existed in the hands of a large number of corporators.

Q. In every instance?—A. In every instance.

Q. Then it was acquired from the hands of numerous holders?—A. In every instance.

Q. That applies to every new refinery that has been brought into the association?—A. To every one.

Q. Is there any instance where you have offered to take the stockholders of these newly-acquired refineries into the association, and they refused to enter?—A. Not to my knowledge.

Q. You just stated, Mr. Parsons, that in some cases you bought up all the stock of certain refineries.—A. Mr. Breckinridge, that is where you and I differ. You speak of purchasing and buying up. There was none purchased and bought up. The stock has been by its owners transferred to this board, and against that stock this board has issued certificates of interest.

Q. Yes; but these present owners, as you have just stated, are not the men who were the owners prior to the formation of this association.

I am speaking of their individual interests.—A. But in no case have the members of this board as individuals acquired any stock in these refineries.

Q. I understood you to say they had.—A. There is where you and I misunderstand each other. You talk of purchasing stock, which in my mind is not a suitable name to apply to this transaction.

Q. You are mixing up two transactions, or rather attributing that to me. I am not intending to do so. I understand you to say that certain gentlemen who are in this association have become personally the owners of the stock of some sugar refineries, one or more, which stock they did not own prior to their forming this association or contemplating the formation of this association?—A. Yes, personally; but not in their individual right. Only as the representatives of the stockholders of all of these corporations.

Q. Well, I do not care about the succeeding step if I get the first one. That is all I am after at this time—the fact that those gentlemen, in one capacity or another, did acquire that stock.—A. That is true.

Q. That is all. The rest of the matter can be settled as it comes up.—A. Except that you are dividing the parts of one transaction.

Q. I am trying to get at the transfer of this stock.—A. Your proposition is literally correct, and I have answered it literally. My testimony shows the rest of the transaction.

Q. Then the original holders of that stock—I speak of the original holders as relating to a period anterior to the formation of this association or its contemplation—are not now the holders of certificates of that stock?—A. They are not the holders of stock certificates.

Q. That is what I mean. What other certificates are there than stock certificates?—A. They are holders of certificates of interest in the stock of their refinery and of all these other refineries.

Q. Yet I would not take that to be the case if they had sold out as individuals to other individuals. Mr. Parsons, suppose you were a sugar refiner, and you did not care to take the certificate of this association, but you had no objection to selling to some gentleman who wanted to go into the association provided he could get a sufficient consolidation of property, and you sold it to Mr. Havemeyer for instance, and Mr. Havemeyer paid you his money, or you sold to any other gentleman who chose to buy you out. You are no longer in the sugar business. You have sold out.—A. But that state of things does not exist. There has been so such transaction with one possible exception.

Q. What is that?—A. There is in New York a refinery called the North River Sugar Refinery.

Mr. BRECKINRIDGE (interrupting). That is what I wanted to know, whether there was any such case.

The WITNESS. There is this case. There is or was in New York a refinery called the North River Sugar Refinery. Mr. George H. Moller, its principal officer, is here as a witness now. Its name appears signed to the deed, signed by Mr. Moller, but before the consummation of the arrangement the North River Sugar Refinery objected to proceeding. Their property in whole or in part had been condemned for a public park in the city of New York, and my belief is that they believed that by staying out they could get from the corporation of the city for their property as a park more than they could receive from this arrangement. Whatever their motive, they did not proceed, and the result was their stock was purchased by Mr. John E. Searles, jr., and he, as owner of the stock, became party to this arrangement.

Q. That exactly covers the kind of transaction I have been trying to get at.—A. That occurred in that case, and that is the only case in which that transaction occurred, and there there was no departure from the mode of the arrangement except that Mr. Searles became a member of the association instead of the previous stockholders, and that was the only instance which occurred.

Q. What is the name of this gentleman who signed the deed for them?—A. George H. Moller; there he sits [pointing to Mr. Moller].

Q. Did Mr. Moller tell you or any of you gentleman —

The WITNESS. May I add to my previous answer? Mr. Havemeyer raises a question as to whether those certificates have been actually issued or not. As to that I can not answer, but they exist.

Q. They are issued or to be issued?—A. Yes, you put it straight.

Q. Mr. Searles and Mr. Havemeyer, as I understand, own all Mr. Moller's stock?—A. Mr. Searles does.

Q. Mr. Searles alone?—A. Yes, sir.

Q. He, then, owns the stock and Mr. Moller does not?—A. Mr. Moller does not.

Q. What did he pay for that stock—money?—A. Money.

Q. Mr. Searles then receives the certificates, and not Mr. Moller?—A. Mr. Searles would be entitled to the certificate, and not Mr. Moller.

Q. That is precisely what I want to get at. You stated, I believe, that an effort had been made, or an invitation had been extended to Mr. Moller, to let his stock come into this association in the same manner in which other gentlemen had consolidated their stock, and he declined?—A. Mr. Moller signed the deed, this very paper; his name appears among the signatures.

Mr. HOPKINS. Mr. Moller senior or junior?—A. Mr. Moller; I do not know whether senior or junior. There are several branches of the Moller family.

Mr. HOPKINS. I know that very well indeed. As a New York merchant, I know them all.

The WITNESS. He is not of the Peter Moller family.

The CHAIRMAN. This is George H. Moller who is present.

Mr. BRECKINRIDGE (to the witness). Please continue.

The WITNESS (continuing his answer). His name appears among the signatures, but there was a long interval between the time when Mr. Moller signed and the time when other parties signed, and the time fixed for the consummation of the arrangement, and at that time Mr. Moller, or the parties represented, changed their minds.

Q. That is very well. The only point I wanted was the fact that an invitation had been extended to him, or an effort made to secure his co-operation.—A. That is so.

Q. What was the face value of the stock that Mr. Moller possessed?—A. The capital of Mr. Moller's company was \$350,000. The amount of the certificates—

Q. I am not speaking of certificates, but of stock.—A. The stock was \$350,000.

Q. What amount of money did Mr. Searles pay for this property?—A. \$325,000.

Q. What amount of certificates was Mr. Moller to have received?—A. \$700,000, less 15 per cent., reducing the amount to \$595,000.

Mr. HOPKINS. Mr. Parsons, I would like to ask a question, please.

Q. You do not know that the stock is on the New York market, do you? I ask you as a lawyer.—A. Do you mean the certificates?

Q. Yes.—A. Only by newspaper report. I know of no sales.

The CHAIRMAN. Mr. Parsons, we come back to the question submitted to you at the adjournment.

The WITNESS. That matter has been considered since the adjournment, and the situation is this: I do not own that deed. I have no control over that deed. It is the property of the board. I come here with authority to furnish a copy complete, with the exception of the distribution of the certificates. I have no authority to furnish that distribution. I hope the committee will be satisfied to take the deed in the form in which it exists without raising any further question, and for this reason: While it is the desire of all parties to furnish any information which in their judgment bears upon legislation, there are large private interests at stake here which might be hurt by an inquiry into matters which we regard as purely private. These various refineries differ in strength, importance, and credit, and it might easily be that inferences would be drawn, if these amounts were given, which might be seriously injurious; and I am very satisfied that the committee would not wish to be even innocently the instrument of occasioning such injury.

The CHAIRMAN. Now, gentlemen, it seems to me that with that statement before us it is proper that the committee should go into executive session.

Mr. WILSON. I would like to ask a question or two first.

Q. I understand, Mr. Parsons, that the certificates of interest in your sugar refineries' company were based not upon capitalization or stock of corporations, but upon the actual value of the property.—A. The actual value of the property, and the supposed superiority which one might have as against another by better appliances in use, etc.

Q. That would probably be included under the head of actual value of property. I infer from your statement of amount of stock issued to Mr. Searles, who became the owner of the refinery of Mr. Moller, that the certificates of interest were exactly twice the actual value of the property that entered into the association?—A. That would be an erroneous inference. The capital of Mr. Moller's company had been about \$350,000.

Q. The actual value \$325,000?—A. The amount of certificates was \$700,000, less 15 per cent.—\$595,000. In no consideration of the subject was the relation of the \$350,000 of capital to the \$595,000 of certificates considered.

Q. I understand that you did not consider the capitalization or the amount of stock, but the actual value under the rules of an assessment laid down in your agreement, and that certificates in your company were based upon that actual value in its ratio to the entire cost?—A. Yes, sir; but I do not mean to say there was any regular ratio. It was a matter of agreement.

Q. But you had fixed your limit at fifty millions?—A. Yes, sir.

Q. I understand, then, the transaction was this: Here was a sugar refinery whose stock was nominally \$350,000, whose actual value was \$325,000, that being the price at which Mr. Searles became the purchaser, and upon putting that refinery into this association he received upon the agreed basis of distribution of the certificates of interest in the organization for his \$325,000 worth of actual property \$700,000 of the certificates, less 15 per cent.—A. I can not say that the market value of the stock of Mr. Moller's company was \$325,000.

Q. I am not speaking now of the value of the stock issued, but of the market price of the property.—A. I can not say what its value was. The market price in that transaction was \$325,000.

Q. That is the best evidence, is it not; a transaction of that sort between competent men?—A. Yes.

Q. Then \$325,000 worth of property, as shown by this transaction between men who knew what they were doing, received in certificates of this association \$595,000?—A. Or rather was entitled to receive that amount. Now, Mr. Searles, you will remember, is a member of this board and a party interested in this transaction, and although Mr. Searles was the purchaser, yet the purchase was made on behalf of other parties interested.

Q. Mr. Searles as a member of the board was not the purchaser of the property?—A. No; as an individual.

Q. And as the representative of other individuals he was the purchaser of the property?—A. The property was purchased at \$325,000.

Q. And received \$700,000 in the certificates of the Sugar Refineries Company, less 15 per cent. off?—A. Yes; or was entitled to receive that amount.

The CHAIRMAN. That is the agreed valuation at which you issued certificates for the stock of the company was \$595,000, which stock of the par value of \$350,000 had been bought at \$325,000?—A. That was that transaction.

By Mr. HOPKINS:

Q. Would not you, sir, as a lawyer, having me as your client, have paid \$400,000 for the Moller property? I ask as a merchant.—A. I never saw the Moller property. If I had seen it I would be entirely incompetent to tell whether it was worth \$250,000 or a million.

(After fifteen minutes spent in executive session, the doors were reopened, and the committee resumed its session.)

The CHAIRMAN. Mr. Parsons, the committee have had under consideration the question asked you, and your objection to answering it at this time, and they have reached the conclusion that they will not, for the present, insist upon it. There are, perhaps, however, one or two questions which Mr. Hermann desires to ask you, and to have your answers reported.

By Mr. HERMANN:

Q. Excuse me for repeating the question formally, inasmuch as it was reduced to writing by the stenographer. You have stated that the actual cash value of this property was rated at \$325,000?—A. Of the North River Sugar Refining Company.

Q. So I understand.—A. The stock of the North River Sugar Refining Company, which was \$350,000, was sold for \$325,000 cash.

Q. What did I understand, or what did you say was the par value of the certificates which were issued?—A. \$595,000 net.

Q. Then I recur to the main question. What was the object or the purpose to be conserved by issuing a certificate so much greater than the actual cash value of the property?—A. The parties interested in the North River Sugar Refining Company became parties to this arrangement under an agreement by which they were to receive \$700,000, 15 per cent. off, in certificates. Between the time of their signing the agreement and the consummation of the arrangement they changed their minds and declined to go on. Mr. Searles then came forward in the interests of everybody else, and bought their stock at a price agreed upon—\$325,000 for \$350,000 worth of stock—and then the arrangement became consummated in that way.

Q. My question is as to what was the object, or what was expected to be made, or what was the consideration for these certificates being

issued so far above the actual cash value of the property which was given in exchange?—A. The transactions were separate transactions. The first transaction fixed for the property of the North River Sugar Refining Company was \$700,000—15 per cent. off. The second transaction, which took place months afterwards, fixed for the property for the North River Sugar Refining Company \$325,000 in cash. The purchaser at \$325,000 in cash consummated the arrangement. There was never a sale of \$595,000 of certificates for \$325,000 cash, although that was the practical result.

Q. What was the object of fixing the \$595,000 as the par value of the certificates?—A. That arose in pursuance of the terms of the arrangement. The North River Sugar Refining Company people by agreement—everybody was trying to get as much as he could from the others, and in the end the price being fixed by agreement—were entitled to \$700,000 less the 15 per cent. off, or \$595,000. As they did not come in, Mr. Searles, in the interest of all the other parties interested, acquired their stock at \$325,000. He simply took their place, but that stock was represented at \$595,000, as agreed upon.

Q. In your accounting among yourselves in the syndicate, this property is now valued at \$595,000?—A. It was by the terms of this deed represented by \$595,000 of certificates, and if you treat that transaction as representing the cash value of the certificates, the result is that \$325,000 in cash has been treated as the equivalent of \$595,000 of certificates. But the cash came from all of the other parties interested. It was not an outside transaction.

Q. I also submitted an additional question as to what possibly could have been the object of the company; whether it was not in consideration of the increased value of this property by reason of being merged with a great many properties, etc., and the various capitals being aggregated, so as to make it more valuable in the markets of the world.—A. I think the result of this aggregation is to contribute value, but it had no particular bearing upon that particular transaction. My own impression and belief is, that the property of the North River Sugar Refining Company cost much more than \$325,000; and my impression also is that it was the expectation of the North River Sugar Refining Company people that when their property was taken as a part, they would get from the corporation of New York much more than \$325,000.

Q. Would it not have been more in accordance with commercial and business transactions if you had issued your stock upon the cash value of the property, namely, \$325,000?—A. It would have been if there was anybody to buy the stock and pay cash for it. This body is a mere representative of other parties, and has no cash to use.

Q. Was not this margin left more for the purpose of speculation?—A. No, sir; there is no thought of speculation, and no action which bears upon speculation from the beginning to the end. So far as I know, no one of these parties has ever sold one of these certificates, and so far as I know no one of these parties has contemplated the sale of a dollar's worth of the certificates. Each one of the stockholders of each one of these refineries has become interested in the stock of all. That is the beginning and end of the transaction. It has no relation whatever to speculation.

By Mr. BYNUM:

Q. How much stock did this company turn over to this board?—A. The North River Sugar Refining Company turned over its capital, \$350,000.

Q. That was undoubtedly stock?—A. Yes, sir.

Q. Was that all it turned over?—A. Yes, sir.

Q. Then they issued \$595,000 in certificates for the \$325,000 in stock turned over from the North River Sugar Refining Company?—A. That was the practical result, but it was not done in that way.

Q. How was it done?—A. It was done by the stockholders of the North River Sugar Refining Company selling their stock for \$325,000.

Q. The purchasers of that stock turned it over?—A. They were represented on this board by Mr. Searles, one of their number.

Q. Did not they go on and carry this through as individuals, the same as other stockholders?—A. No. The \$595,000 which represented that stock remains in the reserve fund down to date. It has never gone upon the market.

Q. Then the transaction was that Mr. Searles, representing this trust or combination, purchased this stock for \$325,000, and it is merely the certificates which were to be issued that remain in the hands of the board?—A. That is stated exactly.

Q. Does that transaction represent the proportion of certificates that were issued to the stockholders of other companies, or did they actually turn over their stock?—A. I do not believe it bears upon it at all.

Q. Who put the estimate upon this property when this company first signed this paper and agreed to become a member?—A. George H. Moller, as the representative of the parties interested in this refinery, by agreement of all the parties.

Q. I understood you to say that each one of them examined all this property to see whether the estimate put upon it was a correct estimate?—A. To see whether the schedule corresponded with the property as it existed.

Q. Was there any estimate put upon the schedule?—A. No money estimate.

Q. There was no value attached at all?—A. In this particular case, at the time that the \$700,000—15 per cent. off—of certificates were arranged, there was no thought of the purchase of the stock.

Q. This value of \$700,000 was fixed by agreement with all the parties when they fixed the price at which all the properties were to be taken by the trust?—A. Precisely so.

Q. And the agreement by all of them was that this property should be taken at \$700,000, and it was actually, a short time afterwards, purchased for \$325,000 for the trust?—A. Seven hundred thousand dollars, 15 per cent. off, or \$595,000; and it was some few months after that that this purchase for \$325,000 in cash was made—meantime there having become disclosed the fact that this property had been condemned under a law in New York for a public park, and must therefore cease by operation of law.

Q. Did that condemnation detract from its value?—A. It tended to fix the value of the property in this, that the corporation would endeavor to buy it at the lowest price that was possible, and might be relied upon not to take into consideration the value which it had for sugar-refining purposes, as the corporation desired it for a public park.

By Mr. HERMANN:

Q. Then, I understand you that the original owners of this North River Sugar Refining Company, that is, the North River Company itself, as a matter of fact only received \$325,000?—A. Yes, sir.

Q. These certificates went into the hands of Mr. Searles, who was a member of the syndicate?—A. No sir; they rather remained in the reserve fund under the control of the board.

Q. Was the same margin allowed upon other properties which went into this syndicate?—**A.** It is very difficult to answer that question. Here were two parties dickering as to the value in certificates of the property of a particular refinery. There was no ratio at all. Each transaction was a separate transaction.

Q. Approximately that is substantially the same proportion?—**A.** It is claimed by the parties interested that it required 60 to 70 per cent. of the face value of these certificates to represent these various refineries' properties. It is claimed that without taking into consideration their earning capacity they represent a value to-day of 60 to 70 per cent. of the capitalization of these certificates. It is claimed by them that in addition to that, in reaching a valuation, it would be right to take into consideration patents which represent an enormous outlay of money; inventions, processes, and appliances which never have been patented and which are in use, and which represent an enormous amount of money; the business capacity and, if you please, the good will, which on any ordinary basis represents a very large capitalization; and the taking into consideration of all those matters, therefore, which in a conjecture between an insider and an outsider should be considered, this capitalization is no more than par.

By Mr. MCKINNEY:

Q. Then, do I understand by that answer that a man's ability to conduct the business is represented in these certificates by so much cash?—**A.** Not by any separate item, but if you wish to buy one of these certificates, with it would go a part of Mr. Searle's refining capacity.

By the CHAIRMAN:

Q. One thing is spoken of there which is not in accordance with my understanding of the testimony. This property of the North River Refining Company has not been actually condemned?—**A.** No, sir. It has had upon it that stigma which results when a law is passed which authorizes condemnation, and proceedings have been initiated for the purpose. But there remains the ascertainment of the valuation.

Q. Have proceedings been commenced under the law condemning this property?—**A.** I understand that they have.

Mr. MOLLER. I understand that it is to come up on the 31st of this month.

The WITNESS. I understand that notice for the condemnation has been given, and you will see that the result of that transaction is that we will take our chances with the corporation instead of Mr. Moller.

Q. So that the price at which the corporation of the city of New York, the municipal corporation, will take the property is not yet ascertained?—**A.** No, sir; I mean to make them pay more than \$325,000 if I can. (Laughter.)

Q. You do not desire to be understood as stating here that in your judgment, in ascertaining the value of that property under these condemnation proceedings, no account is to be taken of its enhanced value by reason of the uses to which it has been put?—**A.** If I can prevail upon the supreme court of New York to accept that as an element of value I would have no hesitation in trying it. I think what should fairly be taken into consideration is that it was a sugar refinery.

Q. You have not intended by your answer to waive that element of value?—**A.** I waive nothing.

By Mr. BRECKINRIDGE:

Q. This 15 per cent. that is left in the treasury belongs, I believe, to

every member in this association?—A. Every holder of a certificate is entitled to that pro rata.

Q. Therefore, when this is left in the treasury it is in no sense lost to the party who placed it in the treasury, an equal margin being retained upon every other transaction?—A. Yes, sir.

Q. It is supposed to be just as valuable to him as if it were in his own pocket?—A. Yes, sir. Every certificate to which he is entitled is just as valuable.

Q. And he is entitled to the pro rata of the 15 per cent.?—A. Yes, sir.

Q. The North River sugar-refining property you speak of as having received a stigma when it was marked for condemnation for park purposes. You were perfectly aware of the possibility of diminishing the value on that account when you still carried out the original transaction?—A. Yes.

Q. And made no deductions on that score?—A. No.

Q. The reason, I believe, you stated was that Mr. Moller's original intention was that he considered the value had been enhanced?—A. I do not think I said that; I think I said that between Mr. Moller's signature and the consummation of the arrangement the minds of the parties represented by Mr. Moller changed, and they declined to go on. I think I ought to add this: I have understood from Mr. Moller that the question was raised as to his authority to make the arrangement. At all events, his constituents did not go on.

Q. If this refinery is condemned for park purposes it no longer possesses any power to compete with you as a refiner, as I believe that would be to its destruction.—A. Yes, sir.

Q. What was the inducement, then, to this association to acquire its stock when they knew that very soon they would neither contribute to refining sugar nor compete against refining sugar?—A. Simply an arrangement which had been made, and which concerned a large number of persons. Merely to carry out an original agreement.

Q. You spoke of those transactions with respect to the issuing of certificates as being in no sense speculative, but represented solid values. Am I to understand from that that you consider that they are, or ought to be, or soon will be, worth par?—A. I do not believe that my judgment of their value, present or future, has much importance. The New York papers have stated that they were sold at 75 and 80 per cent., and it was stated in the New York papers yesterday that 100 shares of these certificates sold at 65.

Q. Of course I do not ask the question as a person interested would ask it, but simply as bearing upon the intention and policy of the association; what they would expect to be the effect of their combining together.—A. I think their opinion is that these certificates represented all of these properties. I think that these properties were worth \$45,000,000, represented by outstanding certificates.

Q. And that the earning capacity of this refinery, if continued in this manner, ought to represent a solid value for the call of these certificates?—A. That is my opinion, unless it shall be thought necessary by legislation to injure the interests of all parties concerned; I mean the proprietors of the refineries, the persons employed in them, and, I think, as well the consumers.

Q. In other words, to break up the association?—A. O, no; not to break up the association; it has nothing to do with that matter. I mean to break up American sugar refining.

Q. American sugar refining existed before the association?—A. And will afterwards, and entirely irrespective of it.

Q. And you expected certain benefits to arise from the association of the refineries?—A. I expect these benefits will arise: the cheapness and reduction of expense, which always comes from the aggregation of capital; the lowering of the price, which results from doing business on a large scale; and the consequent increase of consumption, which reacts in the interest of the manufacturer.

Q. Increased profits will arise from those causes?—A. Increased advantages will arise from these causes, including a fair profit to the refiner.

Q. A profit which represents a fair value of these certificates?—A. A fair value of these certificates and the property concerned.

Q. Under the arrangement of which you speak?—A. Yes, sir.

Q. I do not recall just now the number of refineries that are embraced in this association. Will you please state them?—A. There are nine in New York, one in New Jersey, one in Maine, two in Louisiana, one in Missouri, and four in Massachusetts.

Q. That makes eighteen, I believe?—A. Eighteen.

Q. How many of those refineries are in operation to-day?—A. That I do not know.

By Mr. HERMANN:

Q. I understand you to say, in substance, that the aggregate of capital in this trust association was intended to diminish the expense in the refining of sugars, and therefore will have a cheapening tendency in the price as to the consumer?—A. That is my judgment, and I come to that conclusion because *that* is affected by aggregation in all lines of business, whether it is a question of selling dry goods or groceries or operating a number of railroads. The larger the scale upon which business is done the cheaper can the commodity be sold. All political economists say so. It is the experience of all merchants, manufacturers, and business men that that is so, and I do not see why in this case there should be a difference. Political economists tell you, and I think it will be the experience of this arrangement that it is so, consistent with paying a fair price for labor. The laborers in these refineries to-day get the highest price that has ever been paid for such labor, and the only thing that can injure the prices paid to American operators, which is two or three or four times that paid to cheap laborers in refineries abroad, is that legislation shall take place to ruin the refineries.

Q. On the contrary, I was about to ask you whether we do not find, from practical experience in our associations in life and in business enterprises, that the aggregation of capital fosters monopolies, and monopolies, as a general thing, associating together for one common purpose, tend to increase the price to the consumer, and increase the price to those who were engaged in the monopoly?—A. If it were possible to have a monopoly in the manufacture and sale of any commodity, I take it for granted that the self-interest of the seller would increase the price. In regard to sugar it is impossible. In reference to almost all commodities, in this day of railroads and steamships and telegraphs, it is impossible. It is peculiarly impossible in the case of sugar, because the merest minimum reduction on account of the advance of prices here, will bring in foreign sugar immediately. The erection of new refineries, proposed now, will enlarge the output of existing refineries which are not in this arrangement, and it is just as impossible to prevent competition as it is for Mr. Macy, or Mr. Wanamaker, or the late Alexander T. Stewart to prevent competition in the goods in which they dealt. The universal experience is, that when business is done on a large scale

the person carrying on the business can get his profit, and the consumer can get his article at a lower price.

Q. But in view of the immensity of this vast trust association, and its swallowing up and having merged into itself all the refineries of the United States, which I understood to be a fact, will not that in the end produce a final aggregation of the refineries in other countries? Will it not lead beyond the boundaries of the United States, and finally and entirely wipe out all competition and create such a monopoly as that it will be impossible to ever compete against it?—A. I have put together as an appendix to an argument which I addressed to the judiciary committee of the New York assembly charged with a bill upon the subject. I have put together what text-writers say upon the subject—such as Truro Rogers and John Stuart Mill—men who are recognized as leading men in dealing with this subject. They tell you what must be, and also refer to the history of the causes of trade in the past, and they all agree, and I think all gentlemen who know anything upon the subject will confirm it, that the world is too big a place.

Q. As an elementary principle, has it not been your knowledge that monopolies are the enemies of competition?—A. In the only sense in which you can use the term "monopoly;" that is to say, a monopoly protected by a patent or a Government grant. If the Government will give me an exclusive monopoly to sell a certain thing for five years, I will put the price up.

By Mr. SMITH:

Q. Mr. Parsons, you have stated something about benefits accruing to labor. Will you please illustrate that? How does this concentration in this particular class of manufactures in the hands of a few benefit labor?—A. Because the more sugar that they can sell the more labor they require.

Q. My experience with manufacturers goes to show just the reverse of employing labor. As I understand your remarks, that by the concentration of these several manufactures, and as you testified that those particular corporations which formed this trust were a little lame as to the best improvements in manufacturing sugar, this trust would look to it that they were supplied, we will say, with the best machinery and appliances for that purpose. Now, is it not a fact that when such appliances are made labor is more dispensed with?—A. No, sir; not at all. That is not in the experience of manufacturing in any part of the world.

Q. It is not?—A. No, sir; not in any part of the world. More persons are employed in manufacturing under the improvements which exist to-day than at any previous time.

Q. Then my existence here as a human being is a mistake? [Great laughter.]

The WITNESS. Mr. Smith, that argument was started at the beginning of this century [laughter],—at the introduction of the cotton-loom, the spindles for the manufacture of cotton stuffs, in England.

Mr. SMITH. Let me give you my experience. Before we had any planing-machines, let us see how many men were employed to dress lumber. Sugar sold for 5 cents a pound away out West.

The WITNESS. I am employing carpenters to-day, and am paying them \$4 a day. How much did they get at the period to which you refer?

Mr. SMITH. I got 75 cents for hewing timber. I could buy beef at 3 cents a pound and a barrel of flour for \$3 right out in that Territory.

TESTIMONY OF JOHN W. DODSWORTH.

By the CHAIRMAN:

Q. What is your full name?—A. John W. Dodsworth.

Q. Where do you reside?—A. In Brooklyn.

Q. New York State?—A. New York State.

Q. What is your business?—A. Journalist.

Q. On what paper are you engaged?—A. The Commercial Bulletin, as managing editor.

Q. How long have you been connected with that paper as managing editor?—A. Nearly four years.

Q. How long has that paper been in existence?—A. Nearly twenty-five years.

Q. And what is its particular branch?—A. It covers all the large branches of trade—financial trade.

Q. And what do you mean by the expression "it covers"?—A. We endeavor to publish trade statistics; to give all information relating to business and to discuss business questions, and, if we can, to answer questions in an impartial manner.

Q. Have you drawn off from the files of that paper a statement of the prices of sugar?—A. I have.

Q. Covering what period?—A. I have brought with me here a statement of the highest and lowest prices of raw sugar, fair refining; refined sugar, granulated—I should, say raw sugar centrifugal, 96°; the highest and lowest prices for the years 1885, 1886, 1887, and up to the present time, 1888.

Q. Are these the figures [exhibiting a paper to the witness]?—A. Yes, sir.

Q. Now you use an expression here of "raw sugar, fair refining;" what grade of sugar does that refer to? I take it that is a technical expression.—A. That grade is selected as being accepted by the trade as a standard grade.

Q. Is the sugar of any particular form of manufacture?—A. That is a question as to which I can not answer technically; I do not consider myself an expert.

Q. I want simply to know what you mean by the expression "fair refining."—A. That is the name of a particular grade of sugar—fair refining.

Q. Do you know what the distinction is between it and raw sugar, centrifugal?—A. No, sir; I can not answer that technically.

Q. Whether as an expert or whether from practical information?—A. I only go into that as a matter of reporting the markets.

Q. Then this expression "fair refining" is a common expression in the market, which has a technical and well-known meaning?—A. Yes, sir, to people familiar with the business.

Q. You would not be able to distinguish what "fair refining" sugar was from a sample?—A. No. I want it to be understood that I only appear here as a reporter of the markets.

Q. I understand your business is with the statistics and the condition of the market. Now, then, there is another table here of "refined sugar, granulated." What does that mean?—A. That is a particular grade of sugar, which is also a standard grade.

Q. Fair refining sugar, the expression used by you, is one that is technical, and commonly understood in the trade?—A. Commonly understood in the trade.

Q. And you have another table here under the head of "raw sugar, centrifugal 96°."—A. Yes, sir; the raw sugar is also a standard grade, but not so much—not so generally accepted by the trade as the other.

Q. The "96" is 96 per cent., as you understand it?—A. Ninety-six degrees test.

Q. That means by the polariscope test?—A. Yes, sir.

Q. But the expression is one in common use and one which would be understood by a person conversant with the trade?—A. Yes, sir.

Q. How do you gather the figures for your paper?—A. We have a reporter who attends to the markets daily.

Q. In canvassing the markets to whom does he go?—A. To the brokers.

Q. The brokers who buy and sell the sugar upon the market?—A. Yes, sir.

Q. Why does he go to the brokers instead of to the refiners and dealers?—A. Because they are supposed to be the most disinterested persons in the business.

Q. How often is your paper published?—A. Daily.

Q. And is this tabulated statement which you produce here gathered from its files?—A. Yes, sir.

The CHAIRMAN. I propose to submit this paper for the identification of the witness, as part of the evidence.

(The tabulated statement introduced in evidence and marked Exhibit R. L. M., No. 3.)

RAW SUGAR—FAIR REFINING.

	1885.		1886.		1887.		1888.	
	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.
January	5	4½	5½	5½	4½	4½	5½	5½
February	5	4½	5½	5½	4½	4½	5½	4½
March	4½	4½	5½	4½	4½	4½		
April	4½	4½	5½	4½	4½	4½		
May	5½	4½	5½	4½	4½	4½		
June	5½	5½	4½	4½	4½	4½		
July	5½	5½	4½	4½	4½	4½		
August	5½	5	4½	4½	4½	4½		
September	5½	5½	4½	4½	4½	4½		
October	5½	5½	4½	4½	4½	4½		
November	5½	5½	4½	4½	4½	5½		
December	5½	5½	4½	4½	5½	5½		

REFINED SUGAR—GRANULATED.

January	6½	5½	6½	6½	5½	5½	7½	7
February	6½	6½	6½	6½	5½	5½	7½	6½
March	6½	5½	6½	6½	5½	5½		
April	6½	5½	7½	6½	5½	5½		
May	6½	6	7	6½	5½	5½		
June	6½	6½	6½	6½	5½	5½		
July	6½	6½	6½	6½	5½	5½		
August	6½	6½	6½	6	5½	5½		
September	7½	6½	6½	5½	5½	6		
October	6½	6½	5½	5½	6½	6		
November	6½	6½	5½	5½	6½	6		
December	7	6½	5½	5½	7	6½		

RAW SUGAR—CENTRIFUGAL 96°.

January	5½	5½	6½	6	5½	5½	6½	5½
February	5½	5½	6	5½	5½	5½	5½	5½
March	5½	5½	5½	5½	5½	5½		
April	5½	5½	5½	5½	5½	5½		
May	6½	5½	5½	5½	5½	5½		
June	6½	6	5½	5½	5½	5½		
July	6½	5½	5½	5½	5½	5½		
August	6	5½	5½	5½	5½	5½		
September	6½	6½	5½	5½	5½	5½		
October	6½	6	5½	5½	5½	5½		
November	6½	5½	5½	5½	5½	5½		
December	6½	6	5½	5½	6	5½		

Q. Is there any other statement of fact with relation to this market?—
A. No, sir; I have no other statement to make.

Q. Have you in your reporting gathered up and printed the prices as they prevailed in any other market?—A. Only as it affected the New York market, and then only in the regular way.

Q. Have you such data with you?—A. I have none.

By Mr. MCKINNEY:

Q. Do you consider that New York sets the market price for the country?—A. Yes, sir; very largely so.

Q. This statement is a fair representation of the markets of the country?—A. Yes, sir.

Q. You have heard this subject of the organization of a trust among the sugar refiners so much talked about?—A. Yes, sir.

Q. Can you state when you first heard it talked about generally among the brokers?—A. It was in October that I first heard it talked about.

Q. Before that had there not been some whispering of the purpose to form such an organization?—A. We had heard rumors of some sort to that effect.

Q. It had not taken shape before that?—A. No, sir.

Q. Did these rumors produce any effect upon the market, or did any fluctuations in price follow the rumor?—A. Later on there was a declining tendency in raw sugars and an advancing tendency in the refined.

Q. What do you mean by "later;" later than October?—A. Yes, sir; later than October. It was generally stated that it was largely due to the combination, but there may have been other causes besides.

Q. The raw sugar declined, as I understand you?—A. Yes, sir.

Q. And the raw sugar is represented in these two tables as what the refiners buy?—A. Yes, sir.

Q. And the refined sugar advanced?—A. Yes, sir.

Q. Since the fact of this trust being created and having gone into effect became known, has any change in the condition of the market value followed?—A. In what respect?

Q. As to prices or extent of dealing.—A. As I said before, raw sugar has declined and the refined has advanced.

Q. That followed the rumor. Has that condition of things continued to exist?—A. There is to-day a wider difference between the raw sugars and the refined sugars than there was before that time.

Q. Can you state that in figures?—A. Yes, sir.

Q. Just summarize it.—A. I have not the latest quotations. In July, 1887, the difference in prices between "raw sugar, fair refining," and "refined sugar, granulated," was $1\frac{1}{16}$ cents; at the present time, or within a few days, the difference is $1\frac{1}{8}$ cents.

Q. More than half a cent a pound difference?—A. Five-sixteenths of a cent difference.

Q. Has it been known upon the market there, in the city of New York, that no raw sugar can be sold except to the members of this trust; is that the common understanding?—A. The common understanding is that the trust is the only buyer of raw sugar, and importers frequently hold themselves more or less at the mercy of the trust buyers.

Q. Has no effect followed that condition of things in the extent of the importation?—A. Not that I can testify.

Q. Has it been generally reported there that some cargoes of sugar were diverted from the port of New York?—A. That was reported.

Q. When?—A. I can not say positively.

Q. Within two weeks?—A. Farther back than that.

Q. About how many such cargoes of sugar were reported to have been diverted ?—A. I do not know.

Q. More than one ?—A. I can not say.

Q. Perhaps you did not catch the question ; I mean how many do you recollect to have heard such reports about ?—A. I do not remember.

Q. Were the cargoes of sugar so diverted reported to have been sent to foreign countries, or other parts than the United States ?—A. That I do not recollect.

Q. You have given two forms of raw sugar here, one "fair refining," and the other "centrifugal, 96°." Do you know whether other grades than these come into the market in New York ?—A. I believe they do.

Q. Do you know to what extent ?—A. No, sir.

Q. Are these the two principal standard grades ?—A. So I am told by the trade.

Q. Are any refined sugars brought into the port of New York at the present time ?—A. Practically none.

By Mr. BRECKINRIDGE:

Q. You have gone very carefully over this list of quotations ?—A. Yes, sir.

Q. You know it to be correct ?—A. I know it to be correct according to our files.

Q. And the figures in your files are based upon actual transactions, are they not ?—A. Whenever transactions can be obtained. Sometimes the reporter can not get the actual transaction ; then he has to take them as they are given to him by the broker.

Q. Are these brokers generally buyers or sellers of sugar ?—A. They are both. They are rather the agents between the buyer and seller.

Q. Then a broker performs both functions ?—A. The buyer and seller are the principals, and the broker is the agent between them.

Q. He is looked upon as an agent ?—A. Yes, sir.

Q. But the buyer has his broker, and the seller has his broker, I believe, as a general thing ?—A. Yes, sir.

Q. The seller of raw sugars, I believe, employs a broker to make sales for him, does he not ?—A. I presume that is so.

Q. The seller of refined sugar, I think, usually has a broker, or a salesman to conduct his sales, does he not ?—A. Yes, sir.

Q. What I want to get at is to form an idea of any particular system that the brokers may have toward putting prices up or down in case they have no actual transactions to go upon.—A. That is not easy to get at.—We endeavor to get as unbiased reports as we can. If the broker is biased in any way, of course we would not take his statement as authentic.

Q. Your newspaper, the Commercial Bulletin, is, I believe, considered a standard authority on quotations in New York ?—A. We try to make it so.

Q. You have a large circulation with the trade ?—A. Yes, sir.

Q. Your paper is taken pretty generally by the dealers in this market ?—A. Yes, sir ; also by the jobbers.

Q. And they treat your paper as one worthy of confidence, by continuing their subscriptions ?—A. Yes, sir.

Q. That is, your paper would be called the official quotations of the market ?—A. No, sir ; we are not the official authority. I do not know of there being any official quotations except, possibly, what the trust may issue itself.

Q. I believe in commercial circles they usually consider the quotations of exchanges official.—A. Yes, sir.

Q. Have you a sugar exchange in New York?—A. Not at the present time. There was one some time ago.

Q. I think it is generally understood in commercial circles that in any exchange, composed possibly of men on all sides of the trade, such quotations are considered the standard?—A. Yes, sir.

Q. But your paper is as high and as authoritative a source of information as exists in New York; is it not?—A. We try to make it so.

Q. Is it so considered by the trade?—A. I am not the proper one to answer that.

Q. I want to know if there is any other source that is more reliable in its character.—A. It would be immodest in me to say so. There are other papers in the trade.

Q. Do you know how their quotations compare with yours?—A. They are very close. Sometimes ours may be a little under, and at other times a little above. It is only a fraction, and very minute.

Q. So that these quotations are substantially the same?—A. They are substantially the same.

Q. Are there any refineries in or about New York that are not in this association known as the trust?—A. I can not testify as to that. I know only from hearsay.

Q. Is it generally understood in the city of New York that if a ship comes there loaded with raw sugars the only purchaser it need expect is one of the gentlemen or companies associated in the trust?—A. Yes, sir.

Q. That is the general impression of the trade?—A. Yes; that is the general impression of the trade.

Q. The general impression of the trade is, then, that there is no competition for raw sugars in New York, as the purchasing is substantially in the hands of one association?—A. I can not answer that question.

Q. Would you not call that a necessary deduction from your former answer?—A. It would be the necessary deduction, but you want the fact, and that I can not give you.

Q. You spoke of discrepancies between the price of raw sugars and refined sugars. Is it considered by the trade that these discrepancies are more marked since the organization of this trust than before?—A. From all the information that we can collect, it is.

Q. Do you know what was the usual margin or discrepancy in price in New York between what is called "fair refining sugar" and "granulated sugar"?—A. I will have to refer you to the figures.

Q. You do not remember the usual margin?—A. No, sir.

Q. You have all that information, however, expressed in the figures here?—A. Yes, sir; they are included in them.

By the CHAIRMAN:

Q. Your testimony, as I recall it, was that the raw sugar declined in price and the refined sugar increased in price.—A. No, sir; not exactly. The raw sugar has advanced, but not in proportion to the refined.

Q. I so comprehended it.—A. If I so stated, I want to correct it. I meant to have said that the advance in the raw sugar was not in proportion to the refined.

Q. The margin between the two is different?—A. Yes, sir.

Q. Can you state the advance in price, for instance, in raw sugar at any date you may fix between the first of October and the first of January?—A. Yes, sir; since July, 1887, or shortly before the trust came

into existence, "raw sugar, fair retining," has risen from $4\frac{1}{2}$ to $4\frac{7}{8}$, an advance of three-eighths of a cent; while "refined sugar, granulated," has risen in the same period from $5\frac{1}{2}$ to $6\frac{3}{4}$, an advance of $\frac{1}{8}$ of a cent; showing the amount of ratio and the advance in the refined and in the raw.

Q. So that if it is recorded here—I will not stop to look for it—that the price of raw sugars has fallen off since July, 1887, that is a mistake?—A. Yes, sir; there might have been temporary fluctuations, but in the long run the average was the other way.

By Mr. BRECKINRIDGE:

Q. You are speaking of your impression now. Suppose your impression should be contradicted by the record, then you would be mistaken?—A. Yes, sir; I would be mistaken, but not the *record*; it is based upon the figures that are before me.

By Mr. HERMANN:

Q. Then I understand you to say that the proportion of the increase in refined sugars has been greater since the creation of this trust than previously?—A. No, sir; I said that the advance in refined sugar has been greater in proportion than the advance in raw sugar since the trust was organized.

TESTIMONY OF FRANCIS B. THURBER.

By the CHAIRMAN:

Q. You reside in the city of New York?—A. Yes, sir.

Q. And your occupation is what?—A. Wholesale grocer.

Q. You are one of the members of what firm?—A. Thurber, Whyland & Co.

Q. And for how long have you been engaged in the wholesale grocery business?—A. Twenty-five years or more.

Q. As part of your business, are you a purchaser from the refineries of refined sugar and a seller of it to the other merchants of the trade generally?—A. Yes, sir.

Q. Your business is one of the largest wholesale grocery businesses in the country?—A. Yes, one of them.

Q. You have heard of the sugar trust, I take it?—A. Yes, sir.

Q. When did the proposed formation of that association first come to your knowledge?—A. Some time during the last summer and fall.

Q. After that time was there any change in the market with reference to refined sugars?—A. Yes, sir.

Q. And what was that change?—A. The market for refined sugar, taking granulated as a standard, has advanced probably a cent a pound.

Q. And since what time?—A. Within the last five months.

Q. From what source of supply did you practically obtain your refined sugar?—A. From the New York sugar refiners. We occasionally buy small quantities in other markets, but New York is more or less our principal market.

Q. You have bought, from time to time, from the various refiners about the city?—A. Yes, sir.

Q. With whom, principally, have you dealt?—A. I think we have bought from Havemeyers & Elder; Matthiessen and Weichers; the Brooklyn Sugar Company; Havemeyer Sugar Refining Company; and Dick & Meyer. Those are the principal ones we have bought from.

Q. Now, practically, in your business, could you procure the necessary supply of sugar from any other source than the New York refineries? By "practically," I mean profitably.—A. I do not think we could procure the quantity we need, practically or profitably, from any other source than the New York refineries.

Q. You know, of course, that there are, I believe, one refinery in Boston and two in Philadelphia which are not included in this arrangement, this so-called trust?—A. Yes, sir. We have had sugars from both those markets.

Q. Have you ever supplied yourself from those outside refineries?—A. Not to a large extent. We have bought a small quantity in Philadelphia of the lower grade of sugar.

Q. Have you been able to purchase from those refineries since the formation of this trust so that you could, as a matter of practical business, get your supply from them?—A. There has not been enough difference in price between the two markets to make it an object to buy outside of New York.

Q. Has there been a difference between the Boston and Philadelphia price and the New York price?—A. A very slight one.

Q. Not enough to pay the difference in transportation?—A. No, sir.

Q. Have those refineries a sufficient capacity to supply you?—A. They have a considerable output, and I presume if there should be an inducement to them they would turn out more than what they are now turning out, and we might be able to get our supplies from them. But those things regulate themselves pretty well. They follow our market, I think, as closely as they can. They, of course, get all they can for their goods.

Q. And the difference has been slight between the prices of refineries not in the trust and those that are in the trust?—A. Very slight, indeed.

Q. Outside of your own business you keep watch, I suppose, and inform yourself of the general condition of the market in New York?—A. Yes, sir; we have to watch all the markets of the world, more or less, in order to do business.

Q. From your observation, can you state where the refined sugar purchased by other people, and generally for sale in the New York market, comes from?—A. Almost exclusively from New York.

Q. Almost exclusively from these refineries that are connected with this organization or trust?—A. Yes, sir.

Q. Practically, is this combination, therefore, in your judgment, in such a condition that it could (should it elect to do so) control the New York market?—A. It could to a certain extent; but up to just what point other markets would begin to contribute supplies to the New York market is a very difficult thing to say. They do not control the whole business of the country.

Q. The point at which the other refineries not located in New York could supply that market would be reached, I suppose, whenever the New York refineries put their price at a point which would enable other people to pay the transportation charges and put sugar on the market in New York lower than the New York people offered it?—A. Yes, sir.

Q. And therefore the only regulation or protection which the New York market has against the raising of the price by this combination is from the fact that they must keep their prices down to a certain point which will not permit other people to pay the transportation and bring sugar to that market?—A. Yes, sir; that is substantially true.

A. So that no competition with this combination is possible until you reach the point where they put the price beyond what the other refineries can sell it, plus the transportation charges?—A. If they put their prices too high it would tempt others to put up refineries in New York.

Q. In the twenty-five years you have been in business, there have been some changes in the *personnel* of the people engaged in this refining business?—A. Yes, sir; there is not now more than one-third of them that have been in the business that long.

Q. Twenty-five years ago were there more refineries?—A. Excuse me; at any one time this would be difficult for me to say, but I was counting up, with Mr. Leggett, coming down in the cars yesterday (March 8), and we counted eighteen refineries which have gone out of business in the last eighteen or twenty-five years.

Q. Were these refineries in existence during the whole period?—A. No, sir; at different periods.

Q. Then have these refineries, the ones that are now in existence, been in existence during the eighteen or twenty years you speak of?—A. Some of them have, and there have been some changes in the personnel of others, but, I think, only eight or nine refineries now in existence have been in business for fifteen or twenty years.

Q. Without asking you to fix the time, will you please state whether the number of refineries, as they exist to-day, is larger or smaller than the number which existed at any one time during the period you have been engaged in business?—A. I think there is a smaller number now than there has been at some periods.

Q. Has there ever been a time when there were less than there are now?—A. I don't think there has been.

Q. There is no time that you recall?—A. No, sir.

Q. Is there any action or influence exerted upon the markets on this side by the markets in England?—A. Yes, sir; London is the controlling sugar market of the world.

Q. The prices on this side reflect the movement of the prices in London?—A. Yes, sir; to some extent, in a general way. When the world's supply is more or less it is first manifested in London, and it has more or less influence on our markets here.

Q. Do you know of any publication in this country which presents the figures of the London market from time to time?—A. There are a number of circulars which come here. Licht's circular is considered a standard authority. It is an English publication. It is received by the leading brokers here in this market, and the journals here reflect and quote from it.

Q. That is a circular printed where?—A. I think in London, although I believe it is continental.

Q. How frequently is it issued?—A. I am not certain. I can not say. I see it quoted regularly. Occasionally I see it myself.

Q. And where is it quoted?—A. In all commercial centers. The Daily Commercial Bulletin considers it a standard authority. I have an article in my hand which is quoted from it.

By Mr. HERMANN:

Q. To what cause do you attribute the increased price of refined sugar since the organization of this trust? Can it be attributed to the legitimate effect produced by the law of supply and demand?—A. To some extent, but perhaps not entirely. It may be attributed to a variety of causes—to the supply and demand, the state of the supply in the New York markets as compared with other markets where it might differ somewhat, and to the effect of the trust itself.

Q. I understand you to say no perceptible change has been observed between the prices of those refineries which are members of the trust and those which are not in the organization?—A. It is true.

Q. If the final conflict must come by the decree of the trust organization, would not the refineries in the trust, or the organization itself, having so large a proportion of the aggregated capital of the refineries, be enabled to compel those refineries not in the trust in the end to yield, and either retire from business, or be swallowed up, or become tools in the trust organization?—A. It might have that effect, but sometimes a small concern may endure longer than a bigger concern. That is, while they would have a smaller output and would be running at a loss, they would be running at a smaller loss than those which had a larger output. But where monopolies have the advantage is where they extend over a very large portion of the country. For instance, a railroad can do a portion of its work at a loss in one section of the country and have very large resources in other sections. You will see that demonstrated also in the contests of the oil people. The Standard Oil people will run its market down to nothing in one section of the country in order to break down and get control of that particular market, while in other sections they would be getting full profits.

Q. Notice has already been brought to the attention of some of the members of the House, though not to members of this committee, as to cargoes of raw sugar having arrived in the port of New York, and not being able to find any bidders outside of the trust organization, owing to the aggregation of the refineries under that one common head. I will ask you whether, as it becomes stronger and greater, those evil results will not be more appreciably felt?—A. I saw an account, I think, of a vessel off the capes of Delaware. It waited there for orders as to where she should go. I do not know that there was any charge of that kind, but in answering your question unquestionably the closer the control the cheaper such an organization can buy. If a seller of raw sugar had no competition for his trade, naturally he would have to take what he could get; but if his sugar was not unloaded, he could send it to European and other markets, where of course he would not be at such great disadvantage. A combination, unquestionably, can effect great economy. They can buy cheaper, work cheaper, and if they choose, can sell cheaper, than scattered and disorganized concerns.

Q. Is not it a fact that without competition they do not usually choose to sell cheaper?—A. I think that is the truth.

By Mr. BRECKINRIDGE :

Q. You state that you are able to count up in your own recollection some eighteen sugar refineries that have failed in recent years?—A. They have either failed or retired from business.

Q. So that you infer from that that the business is an extra hazardous one?—A. The tendency has been to close margins in the sugar business. For the last eight years it has been unremunerative. I don't think that the effect of the sugar combination thus far has been extreme. It may be so if they should get full control and see fit to do it. But, on the other hand, there is a safeguard that you can, without a very large use of capital, bring in competition in starting opposition refineries. It is not like a railroad where you have got to get a large amount of capital together in order to compete.

Q. I will supplement that by this question, whether the percentage of failures in the sugar-refining business has not been considerably larger than the percentage in other great lines of business, the wholesale grocery business, for instance.—A. I think it has.

By the CHAIRMAN:

Q. Have there been more men retired from the sugar-refining business than from the grocery business?—A. I think there have been.

Q. Were there more men to retire?—A. I do not know.

By Mr. SMITH:

Q. If my memory serves me right, Mr. Parsons testified that in building a plant for the sugar-refining business it took a great deal of capital to get the modern appliances, patents, etc. Your statement in answer to the gentleman was that in case this trust should crowd the sugar to almost an unbearable extent in price that others could step in and put up plants cheaply. I can not understand how that agrees with the statement of Mr. Parsons.—A. Well, you can go into the business, of course, on a large or on a small scale. For instance, take the North River plant. It has been valued here at \$350,000. You can go into the sugar-refining business with from one-quarter of a million to as many millions as you want to put into it. But it is not absolutely necessary that you should go into it on an enormous scale in order to do a large business. Unquestionably the larger concerns may have better machinery and better facilities, but that might be equalized by the remunerative margin there would be in the business. I have already had an application to go into the sugar-refining business since the trust was formed, but I have not, as yet, seen a sufficient inducement to do so. (Laughter.)

At this point, 2.30 p. m., the committee took a recess for thirty minutes.

AFTER THE RECESS.

TESTIMONY OF MR. CHARLES E. NICHOLLS.

By the CHAIRMAN:

Q. Give your name, please, in full.—A. Charles E. Nicholls.

Q. Your business is what?—A. I am a grocer of the firm of Austin, Nicholls & Co.

Q. Is that one of the large grocery houses of New York?—A. They do a very large business.

Q. About how many grocery houses of that size are there in New York?—A. There are three houses doing a business of \$10,000,000 each.

Q. That is, your own?—A. Yes, sir.

Q. And the Thurbers?—A. Yes, sir.

Q. And Mr. Leggett's firm?—A. Yes, sir.

Q. They are the three largest?—A. They are.

Q. How long have you been in the business?—A. Upwards of ten years.

Q. Of course in conducting your business you are the purchaser and seller of refined sugars?—A. Yes, sir.

Q. Buying from the refiners and selling to the retailers?—A. Yes, sir.

Q. From what sources, practically, do you make your purchases?—A. From New York refineries.

Q. Have you, at any time during the ten years, bought from any other source?—A. Yes, sir; but in a very limited way.

Q. Where were those limited purchases made?—A. I think during the strike we bought some in Philadelphia and some in Boston.

Q. With those exceptions your business has been transacted with the New York refineries?—A. Yes, sir.

Q. And the New York refiners with whom you have dealt are the persons named in this agreement or trust-deed?—A. I think so.

Q. Will you state with whom you deal mostly?—A. We buy quite largely of the Havemeyers and Elder Company, and the Havemeyer Sugar Refinery, the Donner and De Castro Company, etc.

Q. Is it practicable for you to buy sugars for your trade from any other source than the New York refineries?—A. I think it is.

Q. Is it practicable at the present time?—A. Well, in moderate quantities.

Q. Could you purchase sufficient quantities to transact your business as it has been and is being transacted from any but the present source?—A. I think not at the present time.

Q. Does that result from the extent of the production or output of the other refineries, or from their location?—A. Largely from their output. The matter of freight is trifling to Philadelphia, but the output there would hardly be sufficient at a moment's notice to supply the New York trade.

Q. So that in effect the only source of supply to your business, as you have been conducting it, is these New York refineries?—A. Yes, sir; they are the principal source.

Q. The only adequate source?—A. Yes, sir.

Q. In conducting your business do you buy directly from the refineries?—A. We do.

Q. Are you furnished with a list of their prices?—A. No, sir.

Q. Is that a matter of dealing?—A. We have a buyer that represents us among the sugar refineries all the time.

Q. A broker?—A. No, sir; one of our employés; a buyer.

Q. In the ordinary course of the business do you gentlemen who purchase in large quantities buy from the refineries at the same price as they sell to others, or is there a shading allowed to you owing to the extent of your orders?—A. Unfortunately there is not. As far as I understand it, we pay the same prices as everybody else. Of course the market is fluctuating constantly and it is largely a matter of judgment when to buy.

Q. But there is no reduction to the large concerns as against the prices at which smaller concerns buy?—A. Not that I know of.

Q. Can you state generally to what extent you are a purchaser of sugars?—A. In the neighborhood of 125,000 barrels a year.

Q. Whereabouts are your sales made?—A. They are pretty well scattered. We are represented over the principal part of the country east of the Mississippi River, largely through the South, and of course through the Middle States and the East.

Q. You heard of the formation of this trust, or projected formation of it, I suppose?—A. Yes, sir.

Q. About when?—A. In October, I think.

Q. What effect, if any, did the announcement of the projected or contemplated trust have upon the market; or, without asking you to say it was the effect, what followed the announcement?—A. Well, shortly afterwards there was a temporary advance in the refined product.

Q. In the price?—A. Yes, sir.

Q. Has that continued?—A. No, sir.

Q. When did it change?—A. It has been a falling market since the first of the year.

Q. Has it fallen back now to the point from which it started on the first of October?—A. I think not quite.

Q. The Louisiana crop is marketed in the winter ordinarily, is it not ?—
A. Yes, sir ; late in the season.

Q. When does it begin to come into the market ?—A. About the last of the year or the first of the next year.

Q. Is it a fact that the market price of refined sugar ordinarily and annually drops off at the time the Louisiana product comes into the market ?—A. Well, I would rather not say that it did. That is rather a local market, and while it might have an effect in that vicinity, I do not think it affects the market in New York very seriously.

Q. Well, in your experience, does not the market price of sugar decrease in December and January ?—A. Well, the demand is supposed to be a little less for it, and the market is perhaps what you might call "nominal quiet" at the time. We have months in the year which are known as sugar months, in which the market is quite active.

Q. Since this organization went into effect have you made purchases from any other than New York refineries ?—A. No, sir.

Q. Have any propositions to purchase from the others come to your house ?—A. No, and they hardly would. If their price was sufficiently lower than that of the New York refineries to justify us in taking the goods we should know it all the time.

Q. It has not been, so far as you know, low enough to justify the expense of the freight on it ?—A. No, sir.

Q. Have you known or heard of any cargoes of sugar coming to the port of New York or the Delaware Breakwater, and being diverted from New York ?—A. Only through the public press. I think there was a short notice of such a cargo.

Q. When was that ?—A. My impression is that it was some weeks ago.

Q. Do you recollect where it was stated that that vessel went to ?—
A. I do not.

Q. Where did she stop ; at the Delaware Breakwater ?—A. I understand so. I was under the impression that she stopped there because that was considered the best market.

Q. She did not come to New York ?—A. I do not understand so.

Q. You did not understand that she came to New York after touching at the Delaware Breakwater ?—A. No, sir.

Q. Without asking you to fix the date, was that notice brought to your attention after the formation of this so-called sugar trust ?—A. I have a very indefinite recollection as to the date. I simply noticed the circumstance in the paper. I supposed it was something liable to occur at any time.

Q. You are unable to state whether that notice came to your attention before or after you had heard of the sugar trust ?—A. My impression is that it was after.

By Mr. HERMANN :

Q. Is there any difference as to the parties with whom you deal since the creation of this trust ? That is, do you deal with the separate refineries as formerly, in their separate firm names, or are any business relations now necessary between yourself and the trust ?—A. No ; not to my knowledge. We buy directly of the same parties as before.

Q. The same as formerly ?—A. The same as formerly, yes, sir.

Mr. BRECKINRIDGE. I have been interrogating the witness a good deal, and I am disposed to defer to other gentlemen of the committee who may wish to ask any questions. If no one does, I will ask Mr. Nicholls one or two questions.

Q. What is your mode of buying sugar in New York?—A. We follow the principle of almost daily making some purchases. Our buyer knows each morning what our stock of sugar on hand is, and what we will require for immediate use, and he purchases according to our wants from day to day.

Q. You have a man known as your buyer?—A. Yes, sir.

Q. What is his mode of conducting that operation?—A. The same as he would purchase any merchandise. Wherever he could find the shade of yellows he wanted and thought the price satisfactory he would buy. We have to regulate our purchases according to the demands for different grades of sugar. Sometimes the orders to buy specify certain brands they want, and, of course, we execute orders as far as we can, and our buyer is constantly in the market buying such sugars as we require.

Q. Have you any place in New York or that vicinity where sellers of sugar are accustomed to gather with samples to effect sales—in the nature of an exchange?—A. No, sir; there is nothing in the nature of an exchange, but there are brokers who purchase for outside customers. Our purchasing is all done, or nearly all, direct from the refineries.

Q. All sales are made from samples, I suppose?—A. Our buyer buys from samples, which he finds in the refineries' offices.

Q. Are they pretty much in one vicinity, or scattered over a considerable expanse?—A. They are pretty much in one locality.

Q. Your buyer goes out, then, when you notify him that you want a given kind of sugar, and makes a search for the grade that is wanted?—A. Exactly.

Q. Do you find much competition among the corporations to sell to you?—A. Yes, sir; all seem to be anxious to do business.

Q. Do they cut under each other to do business?—A. No, sir; the business is so fine that there is not much cutting under. Sometimes the price of one may be a little lower than that of another, but as a general thing their prices are about the same.

Q. You do not find that one refinery is disposed to lead off a reduction?—A. Very seldom.

Q. What fixes the prices?—A. On the granulated article, the supply and demand, largely.

Q. Of course supply and demand generally fix prices, but there are some questions lying, perhaps, behind supply and demand that may affect supply and demand. Do you find less competition among refiners to sell now than there was in former years?—A. Well, I do not know. There are not quite as many of them, but they are all as anxious to push their profits now as they have always been.

Q. Does the business seem more harmonious and conducted with less friction and antagonism than formerly?—A. Well there have been shut-downs sometimes, so that we have had difficulty in getting certain grades of sugar, but on the standard brands we have had no difficulty.

Q. My question did not relate to the supply, but to the amount of competition and friction between sellers.—A. I have never been able to discover much friction between them. There is always a competition. They have expert salesmen who are always anxious to make a transaction and sell their goods.

Q. You find still quite a lively competition in prices between the refineries?—A. I do not know that the prices differ very much. There is anxiety to sell their goods, but the prices are very much the same.

Q. Do you find the same competition exists as before the formation of this trust?—A. It seems to me about the same.

Q. You can see no material difference?—A. I can not.

Q. There appears to be, then, about as much competition and rivalry between them as formerly?—A. Yes; on the part of their salesmen, apparently.

Q. So far as you see, then, the trust has not restricted competition?—A. No, sir; not entirely.

Q. I am not talking about *entirely*; I am talking about *materially*. I did not say that it obliterated competition.—A. I do not think that it has materially restricted competition.

Q. Or in contending for purchasers?—A. I do not see any material difference.

Q. They contend in the same way and to the same extent as before?—

A. The business appears to be done much the same as before.

Q. You can see no effect, then, as a result of the trust?—A. No; I can see no material effect that you can attribute to the trust.

Q. Is there anybody in or about the city of New York that you can buy from who manufactures sugar in that vicinity except some member of the trust?—A. Yes; in Philadelphia or Boston.

Q. I am not talking about Philadelphia or Boston.—A. There is no refinery between Philadelphia or Boston and New York.

Q. That is the question. Then there are no sugars in or about New York that you can buy except the sugars refined by the gentlemen embraced in this trust, that you know of?—A. None except those that I have mentioned.

Q. They are not in New York, are they?—A. You say in or about New York. We call Philadelphia pretty near New York.

Q. But it is not in your city limits. There is a freight rate of about one-eighth of a cent between the two cities, is there not?—A. Yes, sir.

Q. Then if you have to look beyond New York for your supply of sugar you have to incur an expense of about one eighth of a cent additional?—A. Yes, sir.

Q. How much is the freight rate from Boston?—A. I am not certain. About 16 or 18 cents a hundred, I think.

Q. A little more than Philadelphia?—A. Yes, sir.

Q. If you bought sugar from Philadelphia and paid one-eighth of a cent a pound for freight upon it, would that increase your price to your customers?—A. It certainly would if we paid more for it.

Q. If you bought from Boston it would correspondingly increase the price?—A. Yes, unless we shipped direct from Boston.

Q. But if brought to your own establishment?—A. We should add the freight to the price.

Q. It is your custom to add all charges of any character, is it not?—A. Yes, sir.

Q. Suppose you were to look abroad for your sugar, and chose to buy from London or other European refineries, what costs would you incur?—A. The freight and the duty.

Q. What is the duty on the principal sugars that you consume?—A. On granulated it is, I think, something like 3 cents a pound.

Q. Would you add that duty to the price of your sugar?—A. Whatever the duty was we should add to the price of the sugar in London if we imported it.

Q. And the freight?—A. Yes, sir.

Q. And all other charges?—A. Yes, sir.

Q. That would advance the cost of your sugar just that much to the retail merchants who buy from you?—A. Yes, sir.

Q. Then it is the universal law of trade to add up the charges on the cost of the goods?—A. Yes, sir.

Q. That has been frequently denied here by politicians, but never by merchants. The retail merchants, you presume, would likewise add that to the cost when they sold to the consumers?—A. They would certainly be obliged to.

Q. Unless they were insane?—A. Yes, sir.

Q. So that the man who pays it at last is the consumer?—A. Yes, sir.

Q. And the price of the sugar, therefore, would be enhanced to the consumer to the extent of the freight from Philadelphia or Boston; and to the extent of the freight and the duty if imported from abroad?—A. That is correct.

Q. The existence of this duty prevents you from buying from any but domestic competitors, I believe, does it not?—A. Well, that would be a serious obstacle, but the distance and the time that would elapse would always make it inconvenient to import from abroad.

Q. Did you ever buy a dollar's worth of sugar from abroad?—A. No, sir.

Q. Did you ever know a man who did?—A. I do not know than I can name a case. We do not do it.

Q. What is considered the reliable source of market quotations of sugar in your city?—A. The refined article?

Q. Yes, sir.—A. There is the Journal of Commerce, the Price Current, and the Bulletin. They are fairly correct always.

Q. You consider them responsible quoters of the market?—A. We consider them very good authorities.

Q. As good as any?—A. I think so.

Q. As good as any that can be obtained?—A. I think so.

Q. Suppose the refineries in and about New York chose to do so, do you see any reason why they should not refuse to sell to you and compel you to buy from Boston and Philadelphia?—A. I suppose they could do that.

Q. You see no reason why they could not, you see nothing to prevent it?—A. No, sir.

Q. What are the names of the sugars used principally in your trade?—A. We use the granulated more than any other; then the A soft, the A white, and the yellow; and then, of course, come the powdered sugars.

Q. But to take them by the names used in the Government phraseology, do you sell any sugar that is below what is called No. 13 Dutch standard in color?—A. I know nothing of those gradings at all. We only sell the refined article.

Q. (To Mr. HAVEMEYER.) Have you any samples with you, Mr. Havemeyer?

Mr. HAVEMEYER. Yes, sir; I have some here.

Q. (To the witness.) You can tell when you see them?—A. Oh, yes.

The CHAIRMAN. I have a full collection of samples here.

(The chairman then opened a box of samples of sugar.)

Mr. BRECKINRIDGE (to the witness). Pick out the grade that is as low as any sugar that you handle.—A. This [picking out No. 13] is about as low as we handle. Occasionally we get orders for some dark sugars, such as No. 10, for special purposes, but very little of them.

Q. What per cent. of your sales will be as low as No. 10?—A. The amount is insignificant—nearly nothing, you might say.

Q. What per cent. is as low as No. 13?—A. Very little.

Q. Therefore your sales substantially are all above No. 13?—A. Yes, sir.

Q. Do you sell much of No. 14?—A. Well, more of that than of lower grades.

Q. Which grade do you sell the most of?—A. I should say this grade [picking out a sample of granulated sugar].

Q. The duty on that is \$3.50 per hundred, is it not?—A. I believe so.

Q. Your sales then substantially are pretty much all granulated sugar?—A. Yes, sir.

Q. Do you sell much of this grade [picking out Dutch standard No. 20]?—A. Yes sir; we sell a good deal of that.

Q. And you sell a good deal below that?—A. Yes, sir; and a good deal below that.

Q. Do you sell much below this grade [picking out No. 16]?—A. Very little.

Mr. BRECKINRIDGE. I believe that is all.

By the CHAIRMAN :

Q. This testimony which you have given with regard to these sugars other than the 100 per cent. sugar refers simply to the color. All sugars that you sell come from the refinery?—A. Yes, sir.

By Mr. HERMANN :

Q. Mr. Nicholls, you have stated that there has been no effect that you can observe which can be attributed, as to the prices of sugar, to the trust. I will ask you whether you do not observe a much higher price for refined sugar since the creation or organization of this trust than previously?—A. We do observe a higher price. I did not understand Mr. Breckinridge's question that way. I understood him to inquire as to the methods and competition of refineries to sell.

Q. I will ask you whether this increased price can not be attributed largely to the formation of the trust?—A. I presume, perhaps, a portion of it can be attributed to that.

Mr. HERMANN. That is all.

By Mr. BRECKINRIDGE :

Q. You qualified what I understood to be your reply to one or two questions of mine. I understand you now to say you can see a material difference in the effect on the market, but no difference in the manner of selling?—A. To your question I intended to say that there was the same anxiety to sell. It is true that sugar is somewhat higher than prior to the formation of the trust, but I did not understand you to ask me if I attributed it to that association.

Q. I interrogated you especially with reference to the existence or non-existence of competition in prices, and you stated that you observed no difference in competition so far as prices are concerned. You said you observed the same anxiety and willingness and effort to sell, one bidding against the other, and as willing to cut under, and all that, as you observed before?—A. The disposition to cut under is something we never observed, unfortunately.

Q. You never did observe that?—A. No; they have the sugar at a certain price, and if you want it, take it, but if not, they will not urge the subject. I do not see any material difference in prices between the different refineries any more than there has always been.

Q. You find that one refinery is just as much disposed to shade the market as it was before?—A. Yes, I think each is just as much disposed to shade it now as before.

Q. Therefore, so far as you can see, the trust has had no effect to maintain prices?—A. Well, I think that is merging two questions into one.

Q. Are you not talking in two different ways?—A. No, sir.

Q. Are you not what politicians sometimes call trying to execute a straddle?—A. No, sir.

Witness dismissed.

TESTIMONY OF FRANCIS H. LEGGETT.

FRANCIS H. LEGGETT, having been duly sworn by the chairman, testified as follows:

By the CHAIRMAN:

Q. Give your full name, please?—A. Francis H. Leggett.

Q. Where do you reside?—A. In New York City.

Q. What is your business?—A. I am a wholesale grocer.

Q. Are you a member of a partnership?—A. Yes, sir.

Q. Will you give the name of it, please?—A. Francis H. Leggett & Co.

Q. Your concern is one of the large wholesale groceries of the city of New York?—A. Yes, sir.

Q. And referred to in the testimony of the other witnesses whom we have examined to-day, Mr. Thurber and Mr. Nicholls?—A. Yes, sir.

Q. As part of your business you purchase refined sugars from the refineries and sell to your customers?—A. That is our business; yes, sir.

Q. What portion of the country do you make sales to principally?—A. Mostly in the Middle States.

Q. That is, sales of sugar?—A. Yes, sir.

Q. From what source do you purchase your supply of refined sugar?—A. From the refineries of New York City.

Q. I omitted to ask you, but you may state now, how long have you been in the business?—A. For twenty-six years.

Q. During that time where have you made your purchases generally?—A. From New York refineries.

Q. You have not, then, at any time made purchases from the refineries at Boston or Philadelphia or elsewhere to any considerable extent?—A. No, sir; very little.

Q. About what is the extent of your business in refined sugar annually?—A. Well, some years we have sold a little over 125,000 barrels, and some years less.

Q. Then 125,000 barrels is about the average?—A. That is about the average, yes.

Q. Is there at the present time any source of supply from which you could get refined sugar other than from the New York refineries—practically, I mean; of course you could get it, but I mean get it so as to sell it again at a profit. That is what you want to do, I suppose?—A. I have not tried much; but I have heard prices which would make it cost about as much as we are paying in New York, so that we paid no attention to it.

Q. Are there any other sources that you know of where this refined sugar could be obtained at a profit except from the New York refineries?—A. No, sir.

Q. You do not import any sugar?—A. No, sir.

Q. You have heard of this sugar trust?—A. Yes, sir.

Q. The creation and organization of it?—A. Yes, sir.

Q. You may state when you first heard of it?—A. Last fall.

Q. Can you fix the date any more definitely than that?—A. I can not.

Q. You do not know whether it was in September, October, or November that you first heard of it?—A. About September or October, I think.

Q. The early part of the fall?—A. Yes, sir.

Q. You may state what effect upon the market price of refined sugars followed at the time when the information of the formation of this trust reached you?—A. Prices advanced.

Q. How rapidly and how great was the advance?—A. Well, the difference between the price in September and the price now is about a cent a pound.

Q. Has it been more than that at any time in the interval?—A. Yes; about three-eighths above the price now.

Q. It has been about three-eighths higher?—A. Yes, sir.

Q. When was that maximum reached?—A. In January, I think.

By Mr. WILSON:

Q. I understood you to say you purchased on an average about 125,000 barrels annually.—A. That is correct.

Q. How many pounds are there to the barrel?—A. Sometimes over 300 and sometimes less.

Q. Three hundred would be a fair average, then?—A. It might be a little more or less.

Q. Then the advance of a cent a pound is about \$3 a barrel?—A. Yes, sir.

Q. And on a trade of 125,000 barrels a year the increase would be in your expenditures for sugar \$375,000?—A. Yes, sir.

Q. Do you expect to get that back from some one else?—A. Certainly, we expect to get some profit on it.

By Mr. BRECKINRIDGE:

Q. I understand you to say that the price advanced after the 1st of October about a cent a pound?—A. I said the difference between the price at that time and now was about a cent a pound.

Q. Has it been higher during the intermediate period?—A. About three-eighths of a cent higher.

Q. Therefore the advance at one time was a cent and three-eighths?—A. Yes, sir.

Q. And at present it would register an advance of about one cent?—A. Yes, sir.

Q. You have been in the grocery business for a great many years and are familiar with the general course of the market?—A. Yes, sir.

Q. What is the usual course of the sugar market during the autumn and winter. Do you find it then to be an advancing market or a declining market?—A. It is generally a falling market, and as near as I can recollect I think prices declined during that time.

Q. You have observed that generally, while the Louisiana crop is being marketed and the sorghum crop of the West, which I know is a very extensive crop in a small domestic way, prices in the autumn and winter generally drop from what they are in the spring and summer?—A. That is my general impression. Without having looked up statistics, I could not state it very accurately.

Q. That is your general impression?—A. Yes, sir.

Q. Therefore we find the general impression existing that a decline was not only arrested, but an advance of 1½ cents established at one time, and even at this late period, in the beginning of spring, it amounts to a cent?—A. Yes, sir.

Witness dismissed.

TESTIMONY OF HUGH N. CAMP.

Mr. HUGH N. CAMP, having been duly sworn by the chairman, testified as follows :

By the CHAIRMAN :

Q. What is your full name, please ?—A. Hugh N. Camp.

Q. Where do you reside ?—A. In the city of New York.

Q. What is your occupation ?—A. At the present time I am in the lead mining business.

Q. Were you ever engaged in the sugar-refining business ?—A. I was for about sixteen years.

Q. When did you quit that business ?—A. In 1870.

Q. Then for sixteen years before that you were continuously in that business ?—A. Yes, sir.

Q. Where, Mr. Camp ?—A. I was in the city of New York, but the refinery which I was connected with and owned was in Bristol, R. I.

Q. Your business office was in New York ?—A. Yes, sir.

Q. And the actual refining was done in Bristol, R. I. ?—A. Yes, sir.

Q. Have you, since you went out of the business kept track of the sugar industry and of the markets ?—A. Having made a fortune and then lost it in the sugar-refining business, I have always had a good deal of regard to it, and have kept the general run of it. I have no interest in it now, and I have generally kept posted on what was going on in the market from old associations.

Q. When you were in the business how many refineries were running ?—A. I think there were then about 52 in the United States.

Q. Where were they located ?—A. All the way from Portland, Me., to Boston, Bristol, R. I., New York, Philadelphia, Baltimore, Richmond, Saint Louis, and California.

Q. And can you state how many of them were in New York at that time ?—A. If my memory serves me, there were in the city of New York and vicinity some 22 or 23, of which 14 or 15 were on the island of New York.

Q. And the rest in Brooklyn or Jersey City ?—A. Yes, sir.

Q. About what was the output of the refineries in New York at that time ?—A. I think on an average of about 200 barrels, or 10,000 to 12,000 barrels in all per day. They were all pretty small then to what they are to-day. Some averaged only 75 and some 400. My impression is that the average was about 200 a day.

Q. What was the production of refined sugar at that time for the whole country ?—A. Not more than 10,000 or 12,000 barrels a day, certainly.

Q. The refined at that time put out by the refineries was of what grades ?—A. Very similar to the grades to-day.

Q. The bulk of the business then was done in the most highly refined sugar ?—A. Yes, sir; then as now.

Q. Can you tell us what the production is now ?—A. I can not tell you accurately, but I think I am not far wrong in saying about 45,000 barrels a day in the whole United States.

Q. And of that how much is made in New York ?—A. I am trying to think. I should say about 60 per cent. was produced in New York, Brooklyn, and Jersey City.

Q. Of course you know what the cost of refining sugar was while you were in the business ?—A. I do.

Q. What was it per pound?—A. About seven-eighths of a cent per pound.

Q. Do you know now, approximately, what it is?—A. Not from actual experience, but I have heard through various sources that they have cut it down to about 40 cents a hundred—less than one-half what it cost fifteen or eighteen years ago.

Q. What class or grade of sugar was used generally or usually in the refining processes when you were in the business?—A. A very different grade of sugars from what are used now. Twenty years ago there were very few centrifugal sugars used. That was in a measure a new process of sugar making. They were mainly low sugars, common muscovadoes from Cuba, and sugars from Manilla and the different English islands. There were very few of the centrifugal sugars which are now so largely used.

Q. Looking at this sample, will you please pick out something that is about muscovado sugar?—A. That is a low-grade muscovado [picking out a sample marked "Test 78"].

Q. This sugar contained in the bottle marked No. 9 is a type of muscovado sugar such as was commonly used for refining purposes when you were in the business, is it not?—A. Yes, I think so. The standards are changed since then.

Q. The centrifugal process such as you speak of is the refining of sugars by the use of vacuum pans, etc., and the muscovado sugars were refined by boiling in the open air and crystallizing by the open process, and without the use of any scientific means. It was purified from the molasses, as I comprehend it, by mere dripping and straining?—A. Yes, sir.

Q. Was there in 1870 and before that time a considerable consumption in the market of unrefined sugars?—A. Yes, sir.

Q. Can you select from these samples shown you one that is about the type of sugars used in an unrefined condition?—A. (Picking out Dutch standard No. 14.) That is one. It was very rarely under 14. That is about the number which was sold for consumption, and from that up.

Q. How much raw sugar compared to the entire consumption of the country was at that time imported to be used direct, not to go into the refinery?—A. I could not be very exact, Mr. Chairman; but my impression is, perhaps 20 per cent. of the importations prior to 1870 went into direct consumption.

Q. At the present time what proportion of imported sugars unrefined goes into direct consumption?—A. I think a very small percentage.

Q. Is it not practically nothing?—A. I think you are about right.

Q. So that practically in the consumption of sugar to-day in the American market the only sugars used are the refined sugars?—A. That is practically the case.

Q. They are all more or less refined?—A. Yes, sir.

Q. Have you paid some attention to this sugar business so as to know with reference to the amount of sugar consumed per capita in the country?—A. Only from statistics.

Q. Have you paid attention to such statistics?—A. Yes, sir.

Q. How does the present consumption compare with that of the period when you were in the business?—A. At that time we calculated about 30 or 33 pounds per capita. I think it is about 50 now. It has increased very materially.

Q. You have before you there a sample of granulated sugar?—A. Yes, sir.

Q. That is or is intended to be pure sugar, I suppose?—A. I think it is as pure as they can get any sugar.

Q. It is intended to be pure?—A. It is 99½ if not 100 per cent. pure. There can be nothing purer.

Q. How low have you known sugar to be sold in your experience?—A. Prior to 1870 perhaps not lower than 7 cents, but within the last five years as low as 5 cents.

Q. And the present price is what?—A. About 6½ cents.

Q. In giving these prices you give the prices given to the jobbers and the wholesale men?—A. I mean the prices given in the newspapers.

Q. The prices at which jobbers or wholesale men purchase from the refineries?—A. Yes, sir.

Q. What is the comparative price now between granulated sugar and centrifugal sugar, testing 96?—A. I think the last quotation that I saw of centrifugal sugar No. 96 was 5½ cents.

Q. And at the same time what was the price of granulated sugar?—A. 6½ cents.

Q. How low have you known the price of centrifugal sugar at 96, or rather how high have you known it to be, as compared with the prices of granulated sugars? How nearly have you known the prices to be together?—A. I think at one time there was only a difference of five-eighths of a cent a pound.

Q. What do you understand to be the meaning of fair refining sugars?—A. Fair refining sugar is the old name for No. 12.

Q. Dutch standard?—A. Yes, sir.

Q. That is about the average grade of gray sugars?—A. Yes, sir.

Q. Now will you please pick out No. 12?—A. It is this [picking out No. 12].

Q. So that the expression of fair refining sugar is applied to sugars of about the color of this No. 12, Dutch standard?—A. Yes, sir.

Q. And the centrifugal sugar of 96 per cent. may be either above or below 12 in color?—A. In color; yes.

Q. That depends upon the amount of saccharine matter as determined by the polariscope test, does it not?—A. At the time I was in business the polariscope had just come into vogue. We never tested sugar with the polariscope at all, our tests merely as to the color and grade.

Q. Is there any export of refined sugars now from this country?—A. There is some, I think. It was largely exported two or three years ago. I think in one year there were over 100,000 tons exported.

Q. How much was exported in 1887?—A. I think that was the year of the heavy exports, but I am not certain.

Q. That is last year?—A. Yes, sir; or perhaps the year before.

Q. You are not able to fix the year?—A. I am not able to fix the year.

Q. Have you known within the past few months of a vessel or vessels coming here with sugar and departing without making a sale?—A. Not departing. I have heard of cargoes coming here and having to wait a long while before they could find a purchaser, from the fact that there seemed to be no buyers. I do not know that they departed.

Q. When did they arrive?—A. In the month of January.

Q. January last?—A. Yes, sir.

Q. Have you heard of a vessel coming into the Delaware Breakwater and departing from there?—A. I have not.

Q. You do not know of any instance where a cargo of sugar was taken away from the market of New York because of inability to find a market for it?—A. I do not.

Q. You say, in January you heard of a vessel finding difficulty in selling a cargo of raw sugar in New York?—A. Yes, sir.

Q. Do you know how long the vessel was in finding a market?—A. I got my information from a merchant, and not direct, and I am inclined to think it lay there ten days, from what he said; but I do not know of my own knowledge about this.

Q. What was the difficulty in the way?—A. Well, as the former witness expressed it, there was nobody to buy it but the trust, and the trust did not feel inclined to pay the price.

Q. Do you know at what price it was finally sold?—A. Four and one-fourth cents.

Q. Was that the price originally asked, or the price offered?—A. The price asked was five-eighths I think.

Q. And did you understand that the sale as finally made was at the price fixed by members of this so-called trust rather than at the price fixed by the owner?—A. The "trust" bought it, and I presume at its own price.

By Mr. HERMANN:

Q. Was that very much different from the existing price for that class of sugar?—A. It is worth more to day.

Q. But how was it at that time?—A. Three-eighths of a cent a pound is a very serious decline within ten days, without some cause other than mere dullness of the market.

Q. And you attribute that, as I understand, to the want of competition?—A. I think that is a fair supposition.

By Mr. BREECKINRIDGE:

Q. Do you know anything about glucose?—A. Not a great deal. That is a new thing since I was in the business.

Q. They did not put things like that in sugar in your day?—A. Well, sir, they did not use glucose.

Q. Do you know what uses glucose is put to now?—A. I think there is very little made now, and I understand that most of it is used in mixing with sirups. I think very little, if any, is used in mixing with sugars.

Q. Do these refineries usually turn out sirups as well as sugar?—A. A part of the product of every refinery would be sirup.

Q. What per cent. of sirup as per that of sugar would be produced?—A. That depends upon the grade of sugar used. In the low grade of sugars used before centrifugal sugars were used it was as high as 20 per cent.

Q. How is it now?—A. Very much less. Centrifugal sugars have a great deal less thrown out in the manufacture.

Q. Now, take Dutch standard No. 13. A refinery using that grade of sugar, and higher than this grade of sugar (exhibiting No. 9), say, No. 10 or 12, would turn out about what per cent. of sirup?—A. If centrifugals were used the proportion of sirup would be very low comparatively. If Muscovadoes—the old style of sugars—were used it would probably be fully 15 per cent.

Q. What kind of sugar is that which now comes from Cuba? Is it mainly centrifugal sugar?—A. Yes, sir.

Q. And we use, I believe, most of the Cuban, or, rather, most of our sugar is Cuban sugar?—A. Yes, sir. A great deal comes from Manila and from the English islands, but the large proportion is from Cuba.

Q. And therefore sirup would be a very small percentage of the yield of the refinery?—A. Yes, sir.

Q. You know very little about the figure which glucose cuts in the modern manufacture of sirups?—A. Very little, sir.

Q. I think we might ask if you have any general views on the subject of "trusts." We would be very glad to get your opinion. Our inquiries may not have elicited all your information.—A. On general principles I think trusts are detrimental to the interests of the country, and I believe the freer the competition the cheaper the people will get their sugar. I can conceive of a "trust," if it is not too anxious to make money, being in fact a real benefit to the country in cheapening the cost of sugar; but if they are at all selfish, as men mostly are, I can conceive of the trust being made very injurious and detrimental to the interests of the country. I am satisfied that the sugar refineries of the United States can make sugar as cheap as any sugar refineries in the world. I do not suppose any house in the world can make sugar cheaper than the Havemeyers.

Q. Suppose the sugar refining industry is consolidated, as two-thirds of it appears to be here, and the workmen in one refinery were dissatisfied with their condition and wanted to quit, would they stand much chance of getting employment in another refinery?—A. I think not; no, sir.

Q. Under the organization of this "trust," as far as you can see, they would find one common master at every refinery wherever they applied?—A. So it seems to me.

Q. Well, you are a merchant, familiar with trade; what can Congress do to correct the evils of this trust? How would you go at it if you were in our place?—A. I am afraid to say. I do not see how Congress can. It seems to me that these gentlemen, if they have a mind to make up a company, have a perfect right to do it, and I am not legislator enough to suggest any way to stop them.

Q. The best legislator in a case of that sort is a man with a good business head on his shoulders, with a good lawyer alongside to advise him about some things. Can Congress prevent the fixing of high prices for refined sugars here? Is there any remedy for that in our power?—A. There is one remedy, which I think would be very effectual.

Q. What is that?—A. Make all sugars free, both raw and refined.

Q. Do you think that would do it?—A. Yes, sir; I think then the trust would go to pieces, and give the people of the United States very cheap sugar.

Q. You believe, as a business man, that one way to break up a trust is to make the product free?—A. Certainly; at least as far as sugar is concerned.

Q. Is there anything about sugar different from any thing else that you know of?—A. Well, there is nothing, Mr. Breckinridge, that goes so promptly home to the pocket of any man more than—

Q. (Interrupting.) I am not speaking of the concern of the purchaser, but of any method that would prevent the price being put up on the buyer. I am not speaking of the buyer's yearnings for the article, but the price he pays for it. Can you suggest any other method?—A. I am free to say I could not.

Q. Do you know of any reason that would apply to sugar refining and not to steel rails, for instance, if they were in a trust?—A. I think the same thing there would effect the same result.

Q. Do you know any other method?—A. I do not.

Q. Do you speak from the standpoint of a protectionist or a free-trader?—A. I am a protectionist *per se*.

By the CHAIRMAN:

Q. I would like to ask you, since we have got upon this subject, what effect, in your judgment, would the diminution of the tariff upon the high-grade sugars of the qualities suitable to go into immediate consumption without further refining, without any diminution of the tariff upon the low-grade sugars, have upon this sugar business, and the possibility of this trust being operated?—A. That would effectually kill it, but it would be a very unjust way of doing it.

By Mr. BRECKINRIDGE:

Q. That would kill them, would it not?—A. That would effectually kill the business.

By the CHAIRMAN:

Q. You do not catch my question. I ask what effect, not an annihilation, but a diminution of tariff rate upon high-grade sugars suitable for immediate consumption would have upon the importations?—A. It would undoubtedly increase importations of the high-grade sugars; but it would be ruinous to the refining business.

Q. Would it not put an effectual check upon the efforts of associated refineries to put up the price of sugar?—A. It would; but it would be a cesarian operation.

By Mr. BRECKINRIDGE:

Q. I understand you to say that you believe that a well-equipped refinery like the Havemeyers can, with raw sugar at a given price, produce cheaper sugar than any other in the world?—A. As cheap, and I am inclined to think cheaper. Hence I say that with raw sugars free I believe they could compete with the world.

Q. I suppose no man would say that it would be just for a moment to tax their raw sugars, especially upon a specific tax, and put no tax upon the refined sugars. That would be turning their toes up.

Mr. BYNUM. The rates on some low sugars are higher than the rates on the refined now.

Mr. BRECKINRIDGE (to the witness). How was it in the days when you were in the refining business? Could you have competed then with refineries abroad?—A. I could not then. I do not think refineries were so well equipped then.

Q. In what year did you cease refining sugar?—A. In 1870.

Q. What was the difference in the scale of wages that you paid at that time and those that were paid in England?—A. As near as I remember I think our wages were fully double the wages paid in England.

Q. What was the freight rate at that time from Havana to New York on raw sugars?—A. I do not remember exactly, but it was very much more than at present.

Q. How did it compare with the freight rates from Liverpool to New York?—A. I am inclined to think that freight from Havana to New York was quite as high as from Liverpool to New York, if not higher, from the fact that vessels to Havana went empty and came back full, while between Liverpool and New York they had a cargo both ways.

Q. How did the rate from Havana to Liverpool compare with the rate from Liverpool to New York?—A. That I hardly know. I never imported any raw sugar, and was not in the way of knowing much about it.

Q. You think, as a general thing, that the wages you paid your men up to 1870 were about double what were paid men in corresponding employments in England?—A. Yes, sir; and more than double the wages paid in Germany.

Q. Which did you look upon as the most dangerous competitor?—A. England.

Q. You then thought England, with higher wages than Germany, was a more dangerous competitor than Germany?—A. So I thought at that day.

Q. Do you attribute that to the fact that English workmen were more efficient, or to what do you attribute it?—A. I hardly know.

Q. You simply know the fact?—A. I simply know the fact.

Q. You could not quite stand open competition with the English at that day?—A. I think not.

Q. You are not perfectly certain?—A. I am quite certain.

Q. That you could not?—A. That we could not.

Q. Do you know the difference in wages now?—A. No, sir; I do not.

(Mr. Havemeyer here said something to the witness in a low voice.)

Mr. BRECKINRIDGE (to Mr. Havemeyer). We will give you an opportunity to explain all that, Mr. Havemeyer.

Mr. HAVEMEYER. I was just asking him what wages he paid.

Q. What is considered an ordinary day's labor?—A. Ten hours.

Q. And was it an employment simply requiring muscle, and not skill?—A. Most of the sugar refiners had to be skilled to a certain extent. It was a kind of business they could learn very quickly, excepting the leading men, and they got pretty large wages; but the common men, if I remember rightly, earned \$20 to \$25 per month.

Q. And boarded themselves?—A. Yes, sir.

Q. What kind of employment were those men engaged in in your refinery—what would be their work?—A. Oh, all the various manipulations of sugar. Of course they were engaged in lowering the hogsheads, carrying the sugars into the mold from the vacuum-pans, and all the various manipulations of a sugar refinery, which, however, are very much changed now.

Q. In that day they were very different from what they are now?—A. Yes, sir; in that day we used many methods which are not used to-day.

Q. Do you consider the mode of refining sugar now simpler than it was in your day?—A. Very much. It is very much less expensive. You can refine more sugar with less men.

Mr. SMITH. That is what I want to know.

By Mr. BRECKINRIDGE:

Q. And you can find more men suitable for the work now than you could then?—A. I think so.

Q. Your men were not required to know anything about chemistry, were they?—A. No; except the boiler. He was supposed to know a little about it.

Q. He indicated when to discharge one vessel and when to fill another?—A. Yes, sir; he indicated when the sugars were at the proper stage in the vacuum-pan.

By Mr. CROUSE:

Q. You stated in answer to a question by Mr. Breckinridge what the cure would be, in your judgment—that is, you thought that the abolition of a tariff on both raw and refined sugars would have a tendency to

prevent the formation of trusts. Did I understand you correctly?—
A. Yes, sir.

Q. Now, please explain how that would prevent it?—A. It would permit the introduction of foreign refined sugars, and that would keep the market in such a condition that no trust could regulate prices.

Q. That would regulate the market?—A. Yes, sir.

By Mr. HERMANN:

Q. I may possibly, Mr. Camp, have misapprehended an answer given by you. Did I understand you to say that if the present duty on refined sugars was removed or repealed that the American refiners could then compete with the refineries of the world?—A. If all sugars were free. Mr. Havemeyer corrects me by saying—if the rates of labor were the same.

Q. Then, I understand you to say the American refiner could compete with the world?—A. With the difference in labor, of course; but it seems to me that we are so far ahead of the world that we could almost stand the difference in labor if the duty were removed.

Q. You have also referred to the condition of the early manufacturer of sugar in your days, and you have stated that at that time it was impossible for you to compete with the importation of foreign refined sugars. Now, I will ask you this question, whether in your opinion we could have arrived at the happy condition you now admit we are in as to being able to compete, labor being equal, with the foreign refiners of the world without having had the legislated agencies of protective duties in the meanwhile?—A. I think not.

By Mr. HOPKINS:

Q. When did you leave the sugar-refining business?—A. In 1870.

By Mr. WILSON:

Q. You say you do not think we could have arrived at this high stage without protection?—A. No, sir.

Q. Do the refineries have protection now?—A. Yes, sir.

Q. I understood you to say that you were a protectionist, and that you believed if the duty was entirely removed our refiners could compete with any refiners in the world?—A. I said so, and thought so, but of course Mr. Havemeyer knows more about the labor question than I do.

Q. You think so?—A. Yes, sir.

Q. Have they not the same difficulties to contend with in labor and increased price of machinery as any other manufacturers?—A. Yes, sir; but they have surmounted them more.

Q. Have not the others kept pace with them?—A. I think not.

Q. What ones have not?—A. I do not know; but as a general thing they have not.

Q. Have not the cotton and woolen manufacturers?—A. I think not; but of course I am not thoroughly familiar with that subject.

By Mr. HERMANN:

Q. If so, is it not owing to the protection also given them?—A. Yes, sir; I think so.

By Mr. SMITH:

Q. I want to ask a question that relates to labor. As I understand, these trusts are only formed to protect labor [laughter]. Do they employ more men now than they did when you were in the business, to a given amount of product?—A. Nothing like as many.

Q. To what do you attribute that?—A. To the improved methods of manufacture, the centrifugal machines, and the various methods they have adopted to cheapen sugar.

Q. Then you attribute that to the inventive ingenuity of certain inventors in inventing machinery to handle this product which you had to handle with labor before?—A. I think so.

Q. Then the outcome of making sugar so much cheaper is not due to the tariff, but to inventive ingenuity?—A. Not entirely. That had something to do with it.

Q. Do you not think it had more to do with it than the tariff as producing these labor-saving machines?—A. I think it might have had as much to do with it in enabling them to arrive at their present condition.

By Mr. HERMANN:

Q. Did not the tariff induce the inventive genius which finally led to this perfection?—A. Yes, sir.

By Mr. CROUSE:

Q. In your judgment do you not think that there are just as many men engaged in the refining of sugar as there were in your time, when you take into consideration the men that are engaged in the production of the different ingenuities that have been introduced into the business?—A. I think not; no, sir.

Q. Do you think that principle is true or false as applied to any other business? For instance, grain was originally cut with a sickle, then with a cradle, then with a reaper, and finally by a machine which reaps and binds it. Of course every step in that direction eliminated a certain number of the men directly engaged in cutting grain; but do you not think there are as many men engaged in the business of cutting grain to-day as there ever were?—A. I can hardly answer that.

By the CHAIRMAN:

Q. Mr. Camp, can you state what the number of employes was in the refineries in New York when you were engaged in the business?—A. I can only speak of my own refinery, and so many years have elapsed that I may not be correct. My impression is that at that time the house of which I was part owner turned out about 400 barrels a day, and as nearly as I can remember our hands numbered somewhere between 130 and 150. In other words, one man made 3 barrels of sugar. That is about the way I recollect it.

Q. What is it to-day?—A. I can not tell you.

Q. You can not tell us?—A. No, sir.

By Mr. SMITH:

Q. I was going to ask Mr. Camp, for the question has, I believe, been asked by Mr. Hermann, whether or no this inventive ingenuity was not the outcome of the tariff; now I want to ask Mr. Camp if he believes that this ingenuity was an outcome of the tariff?—A. Not entirely, no, sir; by no means.

Q. Do you believe that a tariff has anything to do with the inventive ingenuity of a human being? That is what I want to know. I know where it comes from.—A. I do not think the tariff *per se* has any inventive ingenuity about it except the making of the tariff, but I think if it were not for the tariff protecting the young industries in all these things we never would have arrived at the position we have in the

various industries of the country. We have always had to contend against the low-priced labor of Europe compared with the high-priced labor of the United States.

Q. Do you not believe that the provision in the Constitution which gave the power to Congress to pass such enactments or laws to protect the inventor in his inventions is the cause of the enormous growth of inventions in this country?—A. It has helped it undoubtedly.

Q. By the concentration of these patented inventions these trusts can be made as powerful as they are, they controlling the patents—as testimony was given here by Mr. Parsons, stating that a great number of patents were invested in this trust or combination that were worth so much money.

Mr. PARSONS. I said cost so much.

Mr. SMITH. Consequently, as I understand from the testimony taken here, the trust has been able to purchase that inventive ingenuity and concentrate it, and thereby possesses this power, and the outcome thereof is they can employ less labor and have a larger product than they did when Mr. Camp was a refiner.

The committee then, on motion of Mr. Hopkins, adjourned until Saturday, March 10 at 11 a. m.

WASHINGTON, D. C., *March 10, 1888.*

The committee met at 11 o'clock, a. m., pursuant to adjournment of yesterday.

Present, the Chairman, Mr. Breckinridge, Mr. McKinney, Mr. Grimes, Mr. Wilson, Mr. Crouse, Mr. Smith, and Mr. Buchanan.

TESTIMONY OF H. O. HAVEMEYER.

H. O. HAVEMEYER, having been duly sworn by the Chairman, testified as follows:

By the CHAIRMAN:

Q. What is your name?—A. Harvey O. Havemeyer.

Q. Where do you reside?—A. New York City.

Q. What is your business?—A. Sugar refining.

Q. How long have you been engaged in that business?—A. Twenty years.

Q. Where?—A. New York City.

Q. And your office is where?—A. New York City.

Q. Will you give us the address, please?—A. 117 Wall street.

Q. Are you a stockholder of any of the corporations named in this deed which I show you [handing trust agreement to witness]?—A. In my capacity as trustee, I presume I am.

Q. Were you a stockholder of any of them before the execution of the deed and the transfer of the stock to the trustees?—A. Yes, sir.

Q. Will you name, please, the corporations in which you were a stockholder prior to the deed?—A. The Havemeyers and Elder Sugar Refining Company, and the Donner and De Castro Sugar Refining Company.

Q. Any other?—A. No, sir.

Q. Are you now a stockholder or officer of any of the other companies except as trustee under this deed?—A. No, sir; I am an officer

of two of the companies, but not of any of the companies outside of those mentioned in the deed.

Q. I mean any others than the two you have named. Are you, except in your capacity as trustee, an officer or stockholder in any of the corporations named in this deed, except the two you have mentioned—the Havemeyers and Elder Company and the Donner and De Castro Company?—A. If I understand you right, I am not.

Q. I want to be sure we understand each other. Let me repeat the question. Are you, excepting in your capacity as trustee, an officer or stockholder in any of the corporations named in this deed, except the two you have mentioned—the Havemeyers and Elder Company and the Donner and De Castro Company?—A. Perhaps I had better state what I am.

Q. You may do so.—A. I am a trustee, and as such probably—that is, according to my understanding—I am a stockholder in these different companies. Apart from that, and having no relation with that, I am president of the Havemeyers and Elder Company and also of the Donner and De Castro Company.

Q. Apart from your rights of trustee, you are not connected with any other than those two companies?—A. No, sir.

Q. Where is the office of the Havemeyers and Elder Company?—A. 117 Wall street.

Q. Where is the office of the Donner and De Castro Company?—A. 117 Wall street.

Q. They occupy the same office?—A. Yes, sir; and always have for, I believe, eight years; possibly ten years.

Q. Are you a stockholder of the Havemeyers and Elder Company, independent of your position as trustee under this deed?—A. No, sir.

Q. You have no stock in your name individually?—A. No, sir.

Q. Have you no stock standing in your name as an individual in the Donner and De Castro Company?—A. No, sir; apart from the stock necessary to qualify me as a director.

Q. Well, it is just that that my question is pointed at. Have you some stock in each of these companies?—A. Yes, sir.

Q. In your name individually?—A. Yes, sir.

Q. Have you any stock standing in your name as an individual in any of the other companies?—A. No, sir.

Q. How many refineries has the Havemeyers and Elder Company? How many does it own?—A. Well, the refineries are made up of an aggregation of different buildings, but they are all considered one refinery. They own one.

Q. Is this aggregation of buildings at one locality?—A. Yes, sir.

Q. And operated as one refinery?—A. Yes, sir.

Q. Where is that located?—A. At the foot of South Fourth street, Brooklyn, eastern district.

Q. How many refineries have the Donner and De Castro Company?—A. In the same sense they have only one, but there are three separate buildings.

Q. Operated separately?—A. No, sir; in conjunction.

Q. Are the buildings joined?—A. Two of them are and one is at some distance; but the product is transferred by tank-lighters in the course of process.

Q. So that the processes of refining are conducted in all three buildings?—Yes, sir.

Q. Where are those buildings located?—A. Brooklyn, Eastern District.

Q. The property of the Havemeyers and Elder Refining Company belonged, before the organization of that company, to the firm of Havemeyers & Elder?—A. Yes, sir.

Q. And it was transferred from the members of that copartnership to the company?—A. To the Havemeyers & Elder Company; yes, sir.

Q. For stock of that company?—A. Yes, sir.

Q. The transaction did not involve the payment of any cash by the company?—A. By the company; no.

Q. And the stock of the Havemeyers and Elder Company was transferred to the trustees named in this agreement, with the exception of such portion of it as was necessary to qualify the officers of the company when exchanged for certificates issued under the deed?—A. Yes, sir.

Q. Who are the officers of the Havemeyers and Elder Company besides yourself?—A. The only other officer is Julius A. Stursburg, who is its treasurer and secretary.

Q. He is the gentleman named as one of the trustees under this trust agreement?—A. Yes, sir.

Q. Who are the officers of the Donner and De Castro Company other than yourself?—A. Mr. Julius A. Stursburg is the secretary and treasurer of that company.

Q. And there is no other officer?—A. No, sir.

Q. What is the capacity or output of the refinery of the Havemeyers and Elder Company?—A. Shall I name it in barrels?

Q. You may.—A. Eight thousand barrels a day.

Q. What is the average weight per barrel?—A. About 300 pounds.

Q. And what is the output or capacity of the Donner and De Castro Company?—A. Three thousand barrels a day, of the same weight.

Q. Who were the members of the firm of Havemeyers & Elder before the organization of the company of the same name?—A. Frederick C. Havemeyer, Theodore A. Havemeyer, H. O. Havemeyer, and Charles H. Senff.

Q. And did all of those gentlemen become stockholders in the Havemeyers and Elder Refining Company?

The WITNESS. Is that essential?

The CHAIRMAN. I think so, sir, or I should not have asked it.

The WITNESS. My father has been a partner in the firm of Havemeyers & Elder ever since it existed, but he has had no interest in the business for several years. If it is necessary for it to appear who are the stockholders I will answer.

Q. I deem it so.—A. My father did not become a stockholder.

Q. And the other members did?—A. Yes, sir.

Q. And your father's name?—A. Frederick C. Havemeyer.

Q. The refinery of Havemeyers & Elder has been in operation a good many years, I believe, has it not?—A. The refinery, although under different style of firm, has been in operation for many years.

Q. Practically the business has passed from one copartnership to another, until finally it has passed to this corporation?—A. That is it.

Q. How many years has that business been continued in that way?—A. My father went into business when he was twenty, and he is now eighty two, and we are still in business.

Q. And the business has been continued during that entire time?—A. With occasional interruption. In 1838 we suspended for a short time and then resumed.

Q. For how long has the capacity of the Havemeyers and Elder Sugar Refinery Company been as high as 8,000 barrels a day?—A. Since last September or October.

Q. It was increased at that time?—A. It was increased at that time.

Q. And immediately prior to that time what had been its capacity?—
A. Six thousand five hundred barrels a day.

Q. And for how long a time had it been 6,500 barrels a day?—A. For one year prior to that time.

Q. And before that increase what was it?—A. Five thousand barrels a day. I would like to state that the refinery of Havemeyers & Elder was totally destroyed by fire, and that the new refinery commenced work, I believe, in 1885, with a capacity of about 5,000 barrels a day, and it took a year before the capacity was increased to 6,500, and then another year before it was enlarged to its present capacity.

Q. When did the fire to which you have reference occur?—A. On January 8, 1882.

Q. And the business was not resumed until what time?—A. The latter part of 1884 or 1885, or about that time.

Q. For how long a time has the Donner and De Castro Sugar Refining company been in operation?—A. I think about fifteen years.

Q. You have given its capacity at the time of the execution of this deed. Had it been increased before that?—A. Its capacity had not been increased up to about ten years previous to the execution of the deed.

Q. In this refining business, Mr. Havemeyer, you buy raw sugars?—
A. Yes, sir.

Q. As the article which you refine?—A. Yes, sir.

Q. Those are imported sugars, are they not?—A. With the exception of a few of the low grades of Louisiana sugars, which we get in the winter time.

Q. About what proportion of Louisiana sugars to the entire business do you use?—A. Our own company uses an insignificant amount—not more than 1 per cent.

Q. You produce at these refineries sugars of different grades?—A. Yes, sir.

Q. What is the lowest in color and standard?—A. Well, as near as I can compare a dark yellow with a gray, the lowest is about the same as Dutch standard No. 12 or 13. The difficulty of comparing a refined sugar with the Dutch standard sugar is the difficulty of comparing yellow with gray.

Q. Have you any samples of the dark sugars—I mean the lowest grade sugars?—A. I might explain the absence of such samples from the fact that the Louisiana crop during the winter time supplies the market with all low sugars, and manufacturers make none, and I think seldom make anything below No. 16 in color at this time.

Q. Well, this sample which you do produce here is what grade?—A. I would say about No. 16. No. 16 is about as low as the sugar-refining product runs in the winter time.

Q. During the period of the year when it comes in competition with the Louisiana sugars?—A. Yes, sir.

Q. And at other seasons of the year is there a product of a still lower grade than this?—A. Yes; it runs occasionally as low as No. 12.

Q. While we are on this subject, let me inquire of you between what numbers is the range of the Louisiana product as put upon the market?—A. The Louisiana product is almost necessarily what is called soft, as distinguished from granulated sugars, which are known as hard sugars, and it is my opinion that at least 50, if not 60, per cent. of the product is below No. 16 in color, the remaining percentage being between 16 and 20, 20 being the type of pure whiteness.

Q. And how much of the Louisiana product is there—what percentage of it that reaches the grade of No. 20?—A. Between No. 16 and No. 20, I should think about 40 per cent.

Q. Of that 40 per cent. what fractional part is as high a grade as No. 20?—A. I could not state that. The only way that I know that the percentages are as I have given them is by conference at different times with sugar people from Louisiana in connection with the duty on refined sugar, where they have grouped their sugar in those two classes in those respective percentages.

Q. Does the Louisiana product come to the New York market?—A. A part of the lower grades comes to New York for refining.

Q. Do the higher grades which are used for refining come to the New York market?—A. When the price is below the New York price a few of them reach here. They are generally sold in the South and Southwest.

Q. For distribution, where?—A. Along the line of the Mississippi. The freight to New York is 45 cents a hundred as against 10 cents to Saint Louis, the distributing point.

Q. Of course the testimony you have given with regard to the production of this low-grade sugar applies to both the refining companies of which you are an officer?—A. I should say—

Q. (Interrupting.) If there is any difference I would like to know it.—A. The mode of operation is almost identical, except that the Havemeyers and Elder Companies make what is known as the patent cut loaf, which no other manufacturer makes, and that adds to their percentage of hard sugars as against other refineries.

Q. The patent cut loaf is that which is cut up into regular cubes, or lumps, of the same size?—A. Yes, sir; as distinguished from lump sugar, which is very similar, the difference being merely the crystalline character of one, as distinguished from the whitish dove of the other.

Q. The patent cut-loaf sugar being the crystalline sugar?—A. Yes, sir.

Q. I think you fixed the lowest grade at about No. 13?—A. Yes, sir; as nearly as yellow can be assimilated to gray.

Q. The difference being in the tint—the Dutch standard sample being gray, and the tint of the sugar from your refinery being yellow?—A. Yes, sir.

Q. Do you make all grades between this (No. 13) and the cut-loaf sugar?—A. I believe we make every grade of sugar used.

Q. About what proportion of your entire product is the cut-loaf sugar?—A. I have never heard it estimated. I can tell you in barrels, and then of course I can figure it.

Q. Well, in barrels, then?—A. It is about 350 barrels a day out of a total of 8,000 barrels a day—about 4½ per cent.

Q. The next grade below this cut-loaf sugar that you make is what is known as the granulated?—A. They are of the same grade.

Q. The same grade; that is, they are each supposed to contain 100 per cent. of saccharine matter?—A. Yes, sir.

Q. About what proportionate amount of granulated sugar of that type is produced?—A. The average production of Havemeyers and Elder is 50 per cent. of what are called hard sugars as distinguished from these soft sugars. The percentages vary according to the market and the season.

Q. Averaging it through the year?—A. Yes, sir; about 50 per cent. are hard sugars.

Q. And hard sugars include the granulated and this cut-loaf sugar?—

A. Yes, sir.

Q. Is the hard sugar, as you call it, the sugar which goes into private consumption, generally?—A. Yes, sir.

Q. Is it used by the confectioners and manufacturers?—A. Yes, sir.

Q. And the soft sugars—what becomes of them? Do they go into private consumption, or are they sold to manufacturers, or are they divided?—A. We do not know how it is divided, but we know the cheaper the sugar the nearer it is to the poor man; certain of the lower-grade sugars are called “poor man’s sugar.”

Q. Are these soft sugars used in manufacturing, candy making, and uses of that sort?—A. Yes, sir; a great deal, and for canning purposes.

Q. That is what I meant by mercantile uses rather than private uses.

—A. I could give no estimate of the proportion in which they are used as you distinguish them.

Q. Now, in the purchasing of the low-grade sugars you have certain standards known to the trade, I believe?—A. Standards of what?

Q. Standards of the sugars, fixed standards by which you buy and sell raw sugars.—A. No; raw sugars are sold by color. Color has a certain bearing in the fixing of the value of the sugar for refining purposes, but generally the business is based on the saccharine strength of the article.

Q. And that is ascertained how?—A. By a saccharometer, which under certain manipulations indicates the percentage of saccharine in the sugar.

Q. Is that instrument the same as the one known as the polariscope?—A. It is an adaptation of the polariscope to sugar solutions.

Q. And the instrument is one which enables you to examine sugar solutions so as to determine the amount of saccharine contained in a given quantity of the raw sugar?—A. Precisely.

Q. As I understand the tariff rates upon sugar up to No. 13, the rate is fixed by color?—A. No, sir; not at all.

Q. Well, all sugars colored below No. 13 are at a fixed rate, with additions for each degree of relative saccharine strength?—A. Yes, sir; the sugar tariff fixes the dividing line between raw and refined sugar at No. 13 Dutch standard.

Q. That is, any sugar below No. 13 Dutch standard in color and not testing above 75 per cent. of saccharine strength is taxed at a certain rate?—A. Yes, sir.

Q. And for every additional degree of saccharine strength, as determined by this instrument, there is an addition of 4 cents per 100 pounds?—A. Per degree; yes, sir.

Q. Now, these color standards up to No. 13 afford in themselves no indication of the saccharine strength of the sugar. I take it from the provisions of the law that there is nothing to be determined from the relative strength of these various numbers from No. 13 down, from an examination of the color?—A. No, sir; that bears no relation to the tariff whatever.

Q. That is, No. 8 may have more saccharine strength—have more sugar in it—than No. 13?—A. Yes, sir.

Q. Practically, Mr. Havemeyer, is the raw sugar imported and used by these refineries—the bulk of it—No. 13 and below in color?—A. Yes, sir.

Q. The amount of sugar imported for refining purposes above No. 13 in color is small, I believe?—A. It is nothing. It is accidental.

Q. The trade for some reason seeks to make the color standard of the raw sugar purchased not above No. 13? They intend to keep it No. 13 or below?—A. No. 13 is regarded as the line between raw and refined sugars, the refined sugars being sold on color and the raw sugars on test.

Q. Now, above No. 13 the sugar is sold upon color entirely?—A. Yes, sir.

Q. The polariscope, then, is applied only to No. 13 and below?—A. That is it.

Q. And for the purposes of refining the trade has learned that the sugars tested by the polariscope and not above No. 13 in color are the only ones profitable and practicable to use, has it not?—A. Yes, sir; the sugar-refining trade is concerned with raw material.

Q. Well, these sugars here are not necessarily subjected to any refining process, although they are above No. 13?—A. Oh, yes; they are refined sugars.

Q. There are no refined sugars in these samples. They are all raw sugars, are they not?—A. Not all of them. It depends upon where you draw the line in manufacturing as to what constitutes refined sugar. The process of refining these sugars, although less expensive than in the United States, is nevertheless refining the sugar as it comes from the juice state into consumption.

Q. Well, there is no process applied to these sugars, Nos. 13 to 17, except the process of original manufacture?—A. The original manufacture.

Q. There is no process of refining as distinguished from the making of the sugar from the juice?—A. There are processes of refining very similar to what exists in this country in the refining business, only these are made on the plantation.

Q. The refining, or what you think tantamount to the refining, of these sugars above No. 13 has been done by the planter, or at the plantation, as distinguished from the refining processes of the refiners who buy sugars and subject them to process?—A. The process is very nearly the same, varying according to the ability and skill of the refiner.

Q. From your knowledge of the business are you able to state whether within the last twelve months there has been any of the sugars above No. 13 imported into the port of New York?—A. The only source of information that I have is the Secretary's statistical report.

Q. The report of the Secretary of the Treasury?—A. Yes, sir. I do not follow the importations of sugars except as concerns my own business.

Q. You have not found any of that sugar in competition with your business in the market of New York within a year?—A. Within five years I have not.

Q. Mr. Havemeyer, you are one of the persons named as trustee under this deed. "Harry O. Havemeyer, member of the first class, to hold office seven years." You are the gentleman who is named there?—A. I am the individual.

Q. And you executed this paper on behalf of the Havemeyers and Elder Company and the Donner and De Castro Company?—A. I did.

Q. In the manner that is shown in the instrument?—A. Yes, sir.

Q. Your signature for the Donner and De Castro Company reads "per H. O. Havemeyer, manager, subject to confirmation of stock and scrip holders." Do you recollect making that addition attached to your signature?—A. Yes, sir.

Q. Has the confirmation of the stock and scrip holders, stipulated by this signature, been obtained?—A. Yes, sir.

Q. When was that done, Mr. Havemeyer?—A. During October, I believe.

Q. Of 1887?—A. Of 1887.

Q. Was there a meeting of the stock and scrip holders for the purpose of confirming this act of yours?—A. No, sir.

Q. Was any paper executed by them?—A. Yes, sir.

Q. Confirming this signature?—A. The paper was an assent to receive in lieu of their stock and scrip so many certificates stated, of the United Sugar Refiners' Company.

Q. That being the name given to the organization created by the trust deed?—A. Yes, sir.

Q. And was that consent signed by all stock and scrip holders?—A. Yes, sir.

Q. I notice you make a distinction between stock and scrip holders. Did the corporation of the Donner and De Castro Company issue two classes of scrip?—A. No, sir. Shall I explain it?

Q. Yes, if you will please state what the distinction is. I presume from the care with which it is made that there is one.—A. The Donner and De Castro Company, when I took charge of it about ten years ago, had a capital of a million and a half and \$600,000 of scrip outside.

Q. By scrip you mean stock, I suppose?—A. I think they made some money one year and issued a scrip dividend for it.

Q. So that scrip, as you call it, was in the form of stock issued in lieu of cash in the possession of the company which it represented?—A. For a short time.

Q. So that was the class of stock or scrip which it was intended to cover by this expression "stock and scrip holders" in this instrument?—A. Yes, sir.

Q. And did those persons assent to the transfer of the property of the Donner and De Castro Company, as well as the stockholders proper?—A. Without exception.

Q. Who were the stockholders of the Donner and De Castro Company?—A. The principal owners were the parties interested in the Havemeyers and Elder Company, and there may have been fifty outside of them.

Q. Substantially then the stockholders of the one company were stockholders of the other?—A. Substantially. The Donner and De Castro Sugar Refining Company built a refinery about eleven years ago and were very successful. Havemeyers & Elder contemplated an enlargement of their works and in lieu of that they joined with the Donner & De Castro stockholders and built two refineries, which make the three that they now own; and we owned a majority of that stock and became owners of the majority of the scrip.

Q. So that the majority of the stock, as you say, with the exception of some small amounts, and the majority of the scrip was owned by the stockholders of the Havemeyers and Elder Company?—A. No, by members of the Havemeyers & Elder firm.

Q. Are the refineries of these companies running?—A. The Donner & De Castro refinery is not running, nor has it run at any time in any winter for five years.

Q. When did it shut down?—A. About the middle of October, the usual time.

Q. About how many men, when that sugar refinery is running, are employed by the Donner and De Castro Company?—A. I would have to ask my brother about that.

Q. Well, if you don't know we will leave it until he comes on the stand.—A. I only know in a general way; I do not know the details.

Q. And you do not know about the other company?—A. You mean in the refinery proper?

Q. Yes.—A. About 2,000.

Q. In the Havemeyers and Elder Company?—A. Yes, sir.

Q. In the division of this business the practical work of the refinery is not under your charge?—A. No, sir.

Q. Your business is what may be called the mercantile part, conducted in the city of New York at the company's office there?—A. Yes, sir.

Q. The Havemeyers and Elder Company's refinery has continued to run?—A. Yes, sir.

Q. Without interruption?—A. Without material interruption.

Q. Has it closed down entirely at any time during the past year?—A. No, sir; except that it closed at one time during the coal strike on the Reading system for three weeks, not being able to get coal.

Q. With the exception of the interruption caused by your inability to get coal the business in your refinery has gone on uninterruptedly for the past year?—A. With the exception of the diminution of the meltings as the market would require.

Q. It was not worked to its full capacity all the time?—A. The capacity I have named, 8,000 barrels a day, is the extreme capacity of the best grades of sugar, and as the grade is reduced the capacity is correspondingly reduced.

Q. About what has been its production since the 1st of December?—A. I think it would average 7,000 barrels.

Q. Have there been any meetings of the trustees named in this deed?—A. Yes, sir.

Q. How many?—A. They have been frequent.

Q. And at those meetings have the trustees all attended?—A. No, sir.

Q. Has there been any occasion when all of them attended?—A. I doubt it.

Q. Do you recollect of any occasion when all were present?—A. Could not say.

Q. Has the board of trustees any office?—A. No, sir.

Q. Has it any place of regular meeting—stated place, I mean?—A. No, sir.

Q. Where has it usually or commonly met?—A. During December at the office of Mr. Dos Passos, in the Mills building, New York, and since then the meetings have taken place at the office of Havemeyers & Elder, 117 Wall street.

Q. Mr. Dos Passos is of counsel to the board?—A. He represented certain parties to the agreement.

Q. Before the signing?—A. So I understand.

Q. And who were those persons?—A. Persons other than the Havemeyers and Elder Company and the Donner and De Castro Company, so I understand. I do not know to what extent he represented them.

Q. The Havemeyers and Elder Company and the Donner and De Castro Company and the Havemeyers Sugar Refining Company are represented by different persons?—A. The Havemeyers Sugar Refining Company has no relation to the Havemeyers and Elder Company, and never has had. The Havemeyers and Elder Company and the Donner and De Castro Company were represented by Mr. Parsons.

Q. And the other parties to this agreement were represented by Mr. Dos Passos?—A. I could not say of all of them; but I understand a majority of them were.

Q. At meetings held at Mr. Dos Passos's office will you state who were present so far as you recollect?

The WITNESS. Will you allow me to look at the names?

The CHAIRMAN. Certainly [handing witness copy of the deed containing the names].

A. The gentlemen generally present at all meetings were Harry O. Havemeyer, F. O. Moller, John E. Searles, jr., Charles A. Seuff, Theodore A. Havemeyer, John Jurgensen, and William Dick.

Q. Those gentlemen are all residents of the city of New York, or its immediate neighborhood, I believe, are they not?—A. New York, Brooklyn, and Jersey City.

Q. And have their places of business in the city of New York?—A. Yes, sir.

Q. Is there any person a member of that board who is not a resident of New York City or its environs?—A. Yes, sir.

Q. Who?—A. Joseph B. Thomas. There is an omission here [referring to the deed] of one man's name who was an original signer, or who became one later—Charles O. Foster.

Mr. PARSONS. As I understand, the original deed left that vacant for the Boston interest to fill in, and I think that was agreed upon, but the name probably was not filled in the deed.

Q. (To the witness.) Who is the Boston representative?—A. Charles O. Foster.

Q. His residence is in Boston, and he is one of the trustees?—A. Yes, sir; and also Mr. Joseph B. Thomas, of Boston.

Q. Then, to complete this list as given in this deed, the name of Mr. Charles O. Foster should be added to the members, of the board of trustees?—A. Yes, sir; and Mr. Parsons should be substituted for Mr. Hector C. Havemeyer.

Q. Are you able to state at this time whether Mr. Foster was added as a member of the first, second, or third class?—A. I am not, but my impression is that he is of the third class.

Q. That is, his term of office is three years?—A. I think so.

Q. You have named the persons who were generally present at these meetings at Mr. Dos Passos's office. Were there ever any other of the trustees at any of those meetings except those you have named?—A. Different members have been there more or less and at different times. I just give you names of those who attended most frequently.

Q. Did the board of trustees as constituted by this deed elect officers?—A. They selected a gentleman to preside.

Q. Who was that?—A. Theodore A. Havemeyer.

Q. Did they elect any other officers?—A. A treasurer to sign certificates, John E. Searles, jr.

Q. Did they elect any other officers?—A. Mr. Searles acted as secretary, and used to fill that position in case there was anything to do.

Q. After the election of Mr. Theodore A. Havemeyer as the presiding officer of this board, did he, in fact, preside?—A. Yes, sir.

Q. And did Mr. Searles act as secretary at those meetings?—A. He had nothing particular to do. He had the dignity of the office without any particular functions.

Q. Then you did not call upon Mr. Searles, although nominally secretary of the board, to keep any minutes of the action of the board?—A. No, sir; there was no action and no minutes.

Q. Were no motions made and put by the presiding officer at any of these meetings?—A. There may have been. I have no recollection of any distinct motion by which the sense of the meeting was taken by a vote.

Q. You have no recollection of any vote being taken?—A. No, sir.

Q. Where is Mr. Searles's place of business?—A. 112 Wall street.

Q. He was a member of which one of these firms?—A. Of the Havemeyer Sugar Refining Company.

Q. In that you have now and have had no interest?—A. Nothing except as I hold an interest as trustee.

Q. Except your interest under this instrument?—A. Yes, sir.

Q. Mr. Searles kept no minutes of these meetings, which were submitted to any other meeting to approve?—A. He kept memoranda of matters which were discussed. There were no regular minutes, as I understand minutes, kept.

Q. At the second or subsequent meetings of the board were the proceedings of the previous meeting in any way stated by the secretary?—A. Yes, sir.

Q. Stated from any memoranda?—A. No, sir.

Q. Stated from memory solely?—A. Mr. Searles pretends to be something of a stenographer, but whether he recorded this thing as a stenographer or kept it in his head there was no evidence at the meetings that he kept minutes, as minutes are usually understood.

Q. Whether as usually understood or not, had he memoranda from which he read to the second and subsequent meetings the proceedings of the preceding meetings?—A. He had such memoranda and other gentlemen had such memoranda.

Q. And these reports of the proceedings of the earlier meetings were submitted to the later meetings?—A. These memoranda, if you call them reports.

Q. And were they approved by the meeting?—A. There was nothing to approve of.

Q. No action taken by the meeting with regard to them at all?—A. No particular action.

Q. So that this board of trustees has never kept minutes of its proceedings and none have been submitted by its secretary to it for approval from time to time?—A. None other than these memoranda of which I spoke.

Q. Won't you describe to us what these memoranda consisted of, and how they were kept?—A. If we had a discussion or interchange of views I might jot down what were this man's views or that man's views. There was nothing requiring such memoranda.

Q. Did Mr. Searles jot down these discussions?—A. We all jotted them down. Mr. Searles did not do it any more than the rest.

Q. Was it the memoranda of the discussions which were reported to the subsequent meetings?—A. Those memoranda were what the gentlemen took into consideration, and gave the board the benefit of at the next meeting. The distinction between these memoranda in my mind, and what I think is dwelling in your mind, is whether regular minutes or anything approximating thereto were made at each meeting by Mr. Searles and reported to the next meeting adopted. There was nothing of that kind.

Q. Nothing of the kind?—A. Nothing especially of that kind. I do not wish to draw the line to exclude everything of that nature, and yet I do not wish to give you the impression that that did occur, because it did not. I want to be very careful in these matters because I do not

wish to have my evidence impugned by some man who may think memoranda are minutes.

Q. I want you to be as particular as you can ; but what I want to get at is to know whether the action of this board from time to time at its various meetings was formally or informally—as informally as you please—recorded by its secretary and reported to the subsequent meeting of the board, and the action of the board continued from such reported former action.—A. There was no action of the board and no record of any action of the board whatever.

Q. What occurred, therefore, was simply informal discussion?—A. The board was simply advisory and called for interchange of views, and when a matter was referred to any gentleman he was asked to take it into consideration and give his views upon it at the next meeting. That accounted for the memoranda I made, and I believe the same was the case in reference to memoranda made by other gentlemen.

Q. And did these gentlemen, as matters of that sort were referred to them, come in at later meetings and report their views?—A. Yes, sir.

Q. Of all that there was no record kept by the board of trustees?—A. No, sir.

Q. So that in the management of this business the board has no formal record of any action kept by its secretary and reported at subsequent meetings?—A. To what business do you refer?

Q. The business for which it was created.—A. They were created for the business mentioned in the deed. They have never done any business. They had no business to manage.

Q. Then these meetings were simply for consultation?—A. Yes, sir. They were simply advisory.

Q. And it is your understanding of this deed that although you hold certificates of stock of various corporations for which you have issued your certificates to the amount of forty-five millions, there is no business which requires formal action on the part of these trustees submitted to them under this deed?—A. There is no business whatever. The original intention of the parties in interest under that deed was to put the stock into the hands of the United States Trust Company, and it is a pity they did not, for the functions of those trustees have been wrongfully stated ; and the statement that they have anything to do with the management of the sugar-refining business of this country is absolutely false. It is likewise false that they manage, in any way, shape, or manner, any one of the corporations whose stock is deposited with them. There is a specific provision in the deed that nothing of the kind should occur. It has been rigidly observed.

By Mr. WILSON :

Q I wish to inquire whether Mr. Havemeyer meant that the United States Trust Company should be the trustee instead of the eleven gentlemen mentioned in the deed?

The WITNESS That was it.

By the CHAIRMAN :

Q. And the board, as constituted by the agreement, consists of persons, with the possible exception of Mr. Parsons, who are interested in one or the other of these original corporations?—A. Yes, sir.

Q. Subsequently four additional refinery companies became parties to this paper?—A. Yes, sir.

Q. And they have no representation from among their original stockholders in the board?—A. No, sir.

Q. Of course, these four additional companies were added after some negotiation, I take it?—A. Yes, sir.

Q. Who conducted those negotiations on behalf of the trustees named in this instrument?—A. That is assuming that the trustees had something to do with the negotiations, which is not the fact.

Q. I call your attention to the fact that the instrument itself provides that "the capital stock of other sugar-refining companies and all companies whose business relates directly or indirectly to sugar refining, may be transferred to said board with the consent of a majority thereof."—A. Yes, sir.

Q. The stock of these other companies has been transferred to this board, as I understand Mr. Parsons' testimony?—A. Yes, sir.

Q. I assume, therefore, that it was done under the power contained in this deed?—A. Precisely.

Q. Therefore I ask you the question who conducted the negotiations between these individual corporations and the directors, the trustees named in this instrument, which resulted in the exercise of the power which is given in this deed to the directors?—A. There was no negotiation authorized by the board. There was none taken. Nobody represented them that I am aware of, and I believe I have been present at every meeting except one or two.

Q. Was the subject of these proposed transfers not discussed at the meetings of the board?—A. I do not think so.

Q. On no occasion?—A. On no occasion. Do you mean the acquisition of new stock?

Q. I mean the acquisition of the stock of these four refineries. Was that question never discussed at any meeting of the board?—A. I do not think I could say it was discussed at the meetings. It was discussed outside by individuals, but formally, at the meetings, I do not think it ever was.

Q. Certificates of the trustees under this agreement have been issued to the stockholders of these four companies, have they not?—A. The action of the board in issuing certificates in lieu of the stock is one thing; authorizing negotiations is quite another.

Q. That is not the question I ask you. The stenographer will please read the question.

(Question repeated.)

A. Yes, sir.

Q. Did not the board of trustees authorize the issuing of these certificates?—A. They did.

Q. And was that done at a meeting of the board?—A. It was.

Q. Was there no discussion preceding the giving of authority to issue these certificates in the board with relation to transfers of this stock and certificates to be issued?—A. There may have been some discussion. I do not wish it to be implied when I say there was no discussion that there never was anything said whatever. I mean to say there was no authority given in one individual, or a number of individuals, to negotiate for the acquisition of their stock. That was done by individuals outside of the meetings.

Q. And reported to the board?—A. When the board met on the subject it was to meet for action and not for talk.

Q. Then the individual members of the board, or some of them, conducted these negotiations and reported them to the board, and the board ratified them and directed the issuing of the certificates, did it not?—A. I would rather tell you how it was done.

Q. Very well, tell me how it was done.—A. There are some members of this board in the sugar business who keep familiar with all the other refineries, I believe.

Q. Right there, will you permit me to ask who these members are?—A. John E. Searles is the representative of them.

Q. Anybody else?—A. I do not know. My intercourse with the firm has not been very close since I have been in business; but he is in with the other refiners a great deal and partly represents them, and has ascertained what certificates their stocks will be exchanged for.

Q. That was done by Mr. John E. Searles?—A. It never came to my knowledge until the question had to be decided in my mind as to whether it would be "yes or no."

Q. Now, as I understand the transaction up to this point, Mr. John E. Searles conducted these negotiations, learned what the stockholders of these various corporations were willing to take in trust certificates, and reported that matter to the meeting of the board at which you were present?—A. I do not wish to go on record as having authorized, as a member of this board, any negotiations. I do not wish to appear before this committee as evading answers.

Q. I do not wish to get it upon record that I am trying to mislead you. (To the stenographer.) Read the question.

(Question repeated.)

A. Yes. The negotiations, however, were on his own account.

Q. Now, at that meeting, when Mr. Searles reported this matter, did the directors authorize the issuing of the certificates, or was there more than one meeting before that authorization was given?—A. To my best knowledge, it was already arranged before the meeting of the trustees and a majority of the certificate holders authorized the exchange.

Q. So that at the same time that Mr. Searles reported the amounts which these several stockholders were willing to take, it was ascertained that the certificate holders had also consented to the arrangement?—A. A majority of the certificate holders were members, and they had power to give consent.

Q. Was that consent given then and there at that meeting?—A. Yes, sir.

Q. And do you wish to be understood that this transaction consisted of a negotiation of Mr. Searles without authority from the board and without consultation with you up to the point where he had agreed upon the amount which the stockholders of the four companies would take in certificates and declared upon at a meeting of the board of directors without further consideration, the certificate holders then present constituting a majority of the whole certificates, and the directors consummated or directed the consummation of that transaction?—A. I would rather tell you what transpired, in answer to the question.

Q. Have you any objection to answering the question? I want simply to narrow it down to a statement.—A. In answering the question now I might include something that did transpire.

Q. Now, make your own statement in lieu of answering the question categorically.—A. Mr. Searles knew about what the stock of these different companies could be exchanged for in certificates, and he talked it over with different members of this board, but not in an official way.

Q. Not at a meeting of the board?—A. No, sir. When the thing had been settled that a majority of the scrip holders would give that for the stock, they met and did take action to exchange the certificates and to instruct Mr. Searles to draw the necessary papers.

Q. So that the final action was the result of consultation between the individual members of the board and the certificate holders in advance of the meeting of the board?—A. Yes, sir.

Q. Have any of the refineries of these various companies ceased work, with the exception of the De Castro and Donner Sugar Refining Company, of which you have already testified, since the signing or the completion of this arrangement?—A. I believe only one.

Q. Which one is that?—A. In New York.

Q. One in New York?—A. Yes, sir.

Q. Which one in New York?—A. The Moller, Sierck & Co.

Q. Any others?—A. Two in Boston.

Q. Which are those?—A. The Boston Sugar Refining Company and the Bay State Refining Company.

Q. How large a capacity has the refinery of Moller, Sierck & Co.? What amount is its usual output?—A. I should say 500 barrels a day.

Q. About how many employes has it?—A. Sixty.

Q. When it is running full?—A. Yes, sir. I understand that by the testimony given by Mr. Sierck in the State investigation. I do not know anything about it.

Q. What is the capacity of the Boston Sugar Refining Company?—A. I believe it is 1,800 barrels a day.

Q. What is the capacity of the Bay State Sugar Refining Company?—A. About 800.

Q. The refinery of Moller, Sierck & Co. at the time of the execution of this agreement was in process of repair?—A. Yes, sir.

Q. And as part of that system of repairs did they contemplate an increase of capacity?—A. Yes, sir.

Q. To what extent was that increase to go, or how much of an increase was there to be?—A. I can not state that.

Q. Do you recollect what was said about it, or agreed about it?—A. I was told that they were increasing their capacity.

Q. When did they close down?—A. I believe about the first of February.

Q. Of this year?—A. Yes, sir.

Q. Was there any discussion at the meeting of the board, or between the members of it, about the closing down of that refinery in advance of its shutting down?—A. Yes, sir.

Q. Was that at the meeting of the board?—A. Yes, sir.

Q. Was any opinion expressed at any of those meetings as to the propriety of the closing down of that refinery?—A. Yes, sir; all recommended it.

Q. By whom was the propriety of that course advocated or recommended in your board?—A. I believe by the whole board.

Q. In the opinion of the board, then, it was desirable that that refinery should close down?—A. I am mistaken entirely about that. I would like to correct that.

Q. If you have any corrections to make, you can make them to conform to your best recollection.—A. What was called the mercantile committee discussed that matter and sent them a letter recommending that pending their improvements they had better discontinue work, so that the amount, I believe, would not be confused, or something of that kind.

Q. Now you have spoken of the mercantile committee; is that a committee of this board?—A. They have an advisory function in the mercantile department,

Q. Is it a committee of the constituted members of this board?—A. As far as this board has power to constitute any committee, I should say they were.

Q. I ask you if the membership of that committee consists of persons who are members of the board?—A. Yes, sir.

Q. Who are the members of that mercantile committee?—A. Mr. John Jurgeson, Mr. Jules S. Stersberg, Mr. William Dick, Mr. John E. Searles, Mr. H. O. Havemeyer, and Mr. J. B. Thomas.

Q. This mercantile committee, as you call it, was selected or assumed its functions with the consent of the board?—A. There was no consent about it. The gentlemen connected with this board are either refiners or mercantile men, and the refiners established themselves in one committee and the mercantile men established themselves in the other.

Q. And that arrangement met with the approbation of the members of the board?—A. I do not think there was any action of the board taken.

Q. Without any action, was the approbation expressed by members of the board at the board meeting?—A. No, sir; I do not think anything of that kind occurred.

Q. Was there any discussion of the question at all by the board?—A. Yes, sir. There were discussions on these questions at all times, but there has been no formal discussion in the board. These gentlemen meet as much out of the board as they do in the board. Whether it was arranged in the board or out of the board I can not tell.

Q. Was it arranged by the members of the board, either in or out?—A. It was not arranged by the members of the board that I know of, and yet it may have been. We did not anticipate such a rigid investigation into the action of all these gentlemen. My memory is not clear as to how the thing actually transpired.

Q. Yet, in some way or other, with the knowledge of all the members of the board, there is a committee of gentlemen, whom you named, who act as the mercantile committee?—A. Who act in the capacity of advisory members in the mercantile department of the business.

Q. You have designated them as the mercantile committee. Is that the style they are known among their associates?—A. That is the style.

Q. And among the things that this mercantile committee has done has been to authorize the writing of a letter to Moller, Sierck & Co., recommending that they close down their factory?—A. Yes, sir.

Q. And that under that recommendation Messrs. Moller, Sierck & Co. did close up?—A. That is what they have done.

Q. There is another committee which seems to have acquired a name, if nothing else, as I understand you?—A. In the sense that they are a committee. I do not wish to evade that or avoid it.

Q. I say in whatever sense it is, there is another committee?—A. Yes, sir.

Q. And known among the members of this board of trustees?—A. Yes, sir; it is styled the refining committee, to whom anybody can go for advice.

Q. Upon what subjects are they specially advisory?—A. All subjects appertaining to refining—everything appertaining to refining.

Q. Now, I would like to understand the distinction which exists in the minds of the trustees of this organization between the manufacture and the refining business—where one begins and the other ends?—A. The sugar business involves two things: the purchase of sugar and paying for it; the selling of refined sugar and getting the money.

Q. That is one branch of it?—A. That is one branch of it, and the members of that branch, as a general thing, do not know anything about refining. The other branch is the man who takes the sugar from the dock as it is sent him, refines it, and puts it in a barrel and delivers it upon orders. As a general thing, he knows nothing about the mercantile part of it.

Q. Then, the closing down of the Moller, Sierck & Co. refinery, or the recommendation that it should close down, came under the province of the gentlemen who are advising with regard to the mercantile part of this business?—A. Yes, sir.

Q. And not under the province of the gentlemen who are advising with regard to the manufacturing part of it?—A. That is a correct statement.

Q. Can you give the names of the gentlemen who are supposed to constitute the manufacturing committee?—A. Theodore A. Havemeyer, F. O. Matthiessen, Charles H. Senff, and C. O. Foster.

Q. Mr. Senff, before this instrument was signed, was a member of which one of these organizations?—A. Havemeyer's & Elder.

Q. The Bay State Sugar Refinery has shut down, I believe?—A. Yes, sir.

Q. About when did that occur?—A. I can not say whether it was during the month of January or later.

Q. Was there any discussion in the board, or in either of these committees, or among the members of the board, preceding the closing of that refinery, with regard to the advisability of its closing?—A. No, sir; I think that matter was discussed between the president of that refinery and myself in my office.

Q. Who is the president of that refinery?—A. E. Atchison. I think his first name is Elisha.

Q. He was not a member of this board, then?—A. No, sir.

Q. The discussion which preceded the shutting down of that refinery was with you personally?—A. Yes, sir.

Q. Was any recommendation made to this gentleman by you with reference to its closing?—A. I agreed with him. He told me that he had been in the habit of closing for repairs during the winter season, as all refineries do. He thought now was the time to do it, and I agreed with him.

Q. And the discussion upon that subject was not extended to the other members of this mercantile committee?—A. No, sir.

Q. In advance of the closing of the refinery?—A. No, sir; I do not think it was.

Q. So that that refinery closed up after the talk between you and the president of the company, in which you both agreed that it was wise that it should be closed at that time?—A. The refinery did close after the talk.

Q. The question does not involve anything more than the chronological order of the events, if you will listen to it. Now the other sugar refinery at Boston which is closed is the Bay State Sugar Refining Company?—A. It is the Boston Company. You have been already inquiring about the Bay State Company.

Q. When did that close?—A. My impression is that that closed before this agreement went into practical effect—before December 1.

Q. After the Boston Sugar Refinery Company had signed it or had agreed to sign it?—A. I believe after they had signed it.

Q. I call your attention to the fact that in Mr. Parsons's examination, his recollection was that this instrument was completed by or

about November 1.—A. He is wrong there. The instrument itself was completed, I believe, but the affair did not go into practical effect until the 1st of December.

Q. His testimony related rather to the time when the signing of the instrument by the original parties was completed?—A. He is correct as to that.

Q. That was about October 24?—A. October 24.

Q. So that the Boston Sugar Refining Company had signed this agreement before ~~it~~ closed down?—A. Yes, sir; and without any consultation or conference with any member of the agreement, to my knowledge.

Q. Can you give me the names of the officers of that company?—A. C. O. Foster is president. He is the only gentleman I know.

Q. That Foster is the gentleman who is on the manufacturing committee?—A. Yes, sir; the same.

Q. Now, was there any discussion between the members of this mercantile committee, or between any of the members of the board, concerning the closing down of this refinery, in advance of its closing?—A. Not that I am aware of; no, sir.

Q. Had you any information of the purpose of closing that refinery before it closed?—A. No, sir.

Q. Has it re-opened yet?—A. No, sir.

The CHAIRMAN. I think at this point I will suggest to the members of the committee that any of them who desire may examine this witness.

By Mr. McKINNEY:

Q. This company in Boston, you say, was closed when?—A. I think it was closed in November.

Q. And has not yet re-opened?—A. No, sir.

Q. Do you know whether that was closed or not because of some advantages that New York had in rates of freight, or anything else, over Boston?—A. No, sir.

Q. It was not?—A. No, sir. As I understand it, it was the usual time of closing every year.

Q. Is there any truth in the statement that the importation of raw sugars into the port of New York can be made upon more favorable terms than importations coming into the port of Boston?—A. Yes, sir.

Q. Had that anything to do with the closing down of this Boston firm?—A. No, sir; not that I am aware of. It is the Louisiana crop that shuts the refinery up in the winter.

Q. Is there any other of these refineries closed at the present time; that is, in this trust?—A. I think Moller, Sierck & Co. is closed. The North River refinery is closed. It closed, as I understand it, before the trust went into effect. The Oxnard refinery is closed. And, as I have testified, the Bay State and Continental refineries are closed—the Bay State and Continental of Boston; the Bay State since the execution of the paper, and the Continental before, as I understand it.

By the CHAIRMAN:

Q. Then your testimony with regard to the Boston Sugar Refinery Company was meant to apply to the Continental, or are both of them closed?—A. Both of them are closed now, and both of them were closed before that agreement went into practical effect. The only refinery in New York which has closed since is the Moller & Sierck. It is my understanding that the Oxnard and the Moller & Sierck closed before that went into practical effect, the 1st of November.

Q. And after the signing of the agreement ?—A. Yes, sir.

By Mr. McKINNEY :

Q. Has this Bay State refinery closed for any specific time ?—A. Not that I am aware of.

By Mr. SMITH :

Q. How many stockholders are there in the organization ?—A. I have never learned.

Q. Is Mayor Hewitt, of the city of New York, a stockholder ?—A. Not that I am aware of.

Q. What is the name of the bank that this organization does its business through ?—A. It has not any. It has an organization for the transaction of business.

By Mr. CROUSE :

Q. In the examination in chief there was one point dwelt upon which I did not see the exact occasion for, but it may come out hereafter ; therefore I wish to get a clear understanding of it. I refer to the different grades of raw sugar, and I ask it simply for my own information, and that is this : No. 13, I understood you to say, marked the dividing line between raw sugar and partially refined sugar. Am I right about that ?—A. You are.

Q. So that lower numbers than 13 have more impurities in them, and as you approach 13 you approach the line of refined sugar ?—A. Yes, sir.

Q. And the number above 13 is partially refined, and takes its class among refined sugars ?—A. You are correct.

Q. And as you still go higher up the list you finally reach pure sugar ?—A. A perfection of refining.

Q. And no matter what the process has been, No. 14 has undergone at least a partial process of refining ?—A. It is so considered. It is the fact in sugar-producing countries.

Q. No. 15 has undergone more of the process of refining ?—A. A step further.

By Mr. BUCHANAN :

Q. Who, if you know, took the leading part in forming this consolidation or so-called trust ?—A. I believe Mr. John E. Searles, jr.

Q. Alone and unaided ?—A. As to matters within my personal knowledge he is the only one. If the committee would like to know how it was originated, I would be very glad to tell them.

Q. My only purpose is to ascertain who were the leading ones in originating it, but I have no objection to your stating it in your own language, of course.—A. After conference with Mr. Parsons on the subject I agreed to become a party to the trust. I had no consultation on the matter with any other gentleman at any time.

Q. Who of the parties named in the deed produced here conferred with you in relation to the formation of this trust before the final consummation of the project ; any or all ?—A. Mr. Parsons is the only one I have ever met on the subject.

Q. And you were aware, were you not, that during that time the other gentlemen named in the deed also conferred with Mr. Parsons ?—A. No, sir.

Q. You so understood it, did you not ?—A. No, sir ; my understanding was that Mr. John E. Searles was representing all the others, and had for his counsel Mr. Dos Passos, who conferred with Mr. Parsons.

Q. It was understood at the time that there was unity of purpose or concert of action, was it not?—A. I do not know anything about what the transactions were. I only know what I knew about it.

Q. And what you knew was that there was a proposed consolidation of these interests, or rather I should say a unification?—A. Unification under terms of agreement to be approved by Mr. Parsons.

Q. Now tell me what the purposes were that were to be subserved by such consolidation, as they existed in your mind?—A. The general benefits arising from what we considered the aggregation of capital.

Q. And what were those general benefits? Please specify them.—A. The most particular one was the influence of the Louisiana crop upon the sugar-refining industry of this country.

Q. Was it a desire to counteract that influence?—A. It was a desire to limit the losses, during the marketing of that crop, to a minimum.

Q. How does the marketing of that crop create losses in the sugar trade?—A. The marketing of the Louisiana crop, representing about 40 per cent. of the consumption of the entire country, during the four months that it is marketed, formerly required a reduction on the part of some refineries and complete stoppage on the part of others. This arrangement enables the better refineries to continue work and the absolute stoppage of the others. The economy is in the absolute stoppage, representing the tonnage marketed by Louisiana, as against a pro rata reduction of the entire refineries.

Q. I do not understand exactly what you mean by reduction. Do you mean reduction in price or reduction in the production of the refinery?—A. Reduction of the production.

Q. So that your object was, that while the Louisiana crop was upon the market, thus augmenting the supply of sugar, a proportion of the production equivalent to that crop should cease?—A. Yes, sir.

Q. Maintaining an equilibrium in the supply all the year around?—A. Yes, sir; instead of the disastrous overproduction which always occurred at that time of the year.

Q. Which disastrous overproduction was disastrous in what respect?—A. All that was left was lost.

Q. Please state what loss, and how accruing?—A. If you carry to market the entire production you break the price.

Q. In other words, the result of the throwing of the Louisiana crop upon the market was a reduction of the price of sugar?—A. To a certain point.

Q. And it was to avoid this reduction of the price that this consolidation was formed?—A. To avoid the loss attending such a reduction Louisiana reduced the price.

Q. If no reduction of the price takes place there would be no loss to the refinery?—A. If you could market your product there would not be.

Q. Now I see stated in this deed certain objects :

(1) To promote economy of administration and to reduce the cost of refining, thus enabling the price of sugar to be kept as low as consistent with a reasonable profit.

Will you explain how this consolidation resulted or was supposed to have resulted in a reduction of the cost of refining? I ask that because I have no knowledge upon the subject?—A. There are people of varied knowledge in this business who thought that by giving the benefit of what each knew it would result in better refining and perhaps less cost.

Q. In other words, that community of interest would result in a community of knowledge, and the knowledge of one would thus be in the knowledge of all?—A. Yes, sir.

Q. Has the plan been tried far enough as yet to demonstrate whether it is a fact or not? Has that object been attained to any extent?—**A.** There has been some conference as to how far that could go.

Q. My question is whether the plan has been tried far enough to ascertain whether that object is capable of being demonstrated into fact?

—**A.** To the satisfaction of some, it has.

Q. The second object is—

To give each refinery the benefit of all appliances and processes known or used by the others, and useful to improve the quality and diminish the cost of refined sugar.

Was it a fact that while these refiners were in active competition with each other that some of them were in the knowledge of secret processes which the others knew nothing of?—**A.** We believed it to be.

Q. Has this object been accomplished to any extent as yet—the impartation to each other of the knowledge of their secret processes?—**A.** In a measure.

Q. The third is—

To furnish protection against unlawful combinations of labor.

When you signed that deed what did you understand that language to mean?—**A.** I thought if the occasion of a strike or anything else should occur, I would have to take legal action on that matter.

Q. But it refers to unlawful combinations of labor. There is no law to compel a man to work if he does not wish to.—**A.** There are lawyers to tell us what unlawful and lawful combinations are. I am guided by my counsel in regard to those matters.

Q. I am endeavoring to ascertain the meaning of the parties who formed this combination. You are one of those parties. I am seeking to know your object, and an object is here formulated, and I would like to know what unlawful combinations you had in your mind at the time of the execution of that paper?—**A.** I can not tell you what was in my mind. It was my opinion that a strike which occurred at Havemeyers & Elder's some time ago was an unlawful combination of labor. Mr. Parsons said it was not.

Q. And Mr. Parsons being your legal counsel, you bowed to his decision?—**A.** I did.

Q. The next object here is:

To protect against inducements to lower the standard of refined sugars.

Please explain what that means—what inducements and by whom likely to be put forth?—**A.** In my experience, which is not very extensive, I have found that the invariable results of disastrous competition is the debasement of the property. What they can not do legitimately they undertake in another way.

Q. Can not you state it approximately—you stated to the chairman you could not accurately—the number of men employed in the Havemeyers and Elder Company's refining works?—**A.** I understood from my brother when the chairman put the question that it was 2,000.

Q. Can you give me approximately the number of men employed by the refineries represented in this deed? If you have no personal knowledge, I do not ask you to obtain it from others. On the instant, I thought perhaps you knew approximately.—**A.** I do not. I have understood it to be 25,000.

Q. Are there any sugar refineries shut down to-day that are not included within this consolidation or so-called trust?—**A.** Not to my knowledge.

Q. Give me your best judgment as to the number of employés that were employed in the refineries embraced within this trust at the time of the execution of the deed, and the number that are so employed to-day; I mean actively employed in each case.—A. I understand the difference to be 160 men.

Q. Which way—more or less?—A. Less.

Q. The net result, then, of this shutting down has been the employment of 160 men less than it was before?—A. As to the number of men, 160 less; as to the hours of labor, greatly increased.

Q. From what to what?—A. The other thousands of men had continuous and steady work, which to them, at this season, was tantamount to higher wages.

Q. Has the number of hours been decreased or diminished under the present arrangement?—A. The number of hours that each man works during the month has been increased; that is, the number of hours per day. I had better state that during the winter, when the market suffered from the Louisiana crop, every refiner had to reduce his production from 25 to 35 per cent. and at that time he laid off a certain percentage of his men. That has been corrected under this arrangement; with the exception of those 160 men, the men have either been given employment or have been paid when they were not employed.

Q. I want you to take in a season which is fair by comparison, because I wish to get at the exact facts. Compare the present time with the same time of the year preceding, and what is the comparative employment of the men? Is it greater or less?—A. The number of men employed has been reduced by 160.

Q. I understand that. But how are you going to draw a comparison between the men who lay off 25 per cent. of their time, and the discharge of 160 men absolutely? What I am trying to get at is, taking a season when the Louisiana crop affected the refineries as much as it is to-day affecting them, what is the comparison as to the amount of employment then and under the present arrangement?—A. If the number of men is assumed to be, in this industry, 25,000, and I think it ought to be, and the reduction is 25 per cent., then 6,000 men were laid off. At this season these men have been paid whether they worked or not, and 160 men have been discharged.

Q. Under this arrangement, are the men in the refineries which are shut down given compensation for labor; are they being paid?—A. With the exception of the North River refinery, which has been condemned as a park and which will be dismantled, and the Oxnard Refining Company, which will probably be dismantled, and the Moller, Sierck & Co. refinery, which is undergoing repairs and will not be able to run until May or June, the men, as I understand it, in all the refineries have full month's pay whether they work or not.

Q. Then you claim that the present arrangement is of benefit to the workmen during the season when the market suffers from the Louisiana crop.—A. Yes, sir; undoubtedly 25 per cent. in his monthly wages.

Q. Is there any one connected with this organization who could furnish us the exact figures in regard to this subject?—A. I think Mr. Theodore A. Havemeyer could obtain them for you.

Q. What proportion of the product of this consolidation is exported?—A. Now, none.

Q. Formerly how much?—A. In 1883 I think it was 10 per cent. of the entire capacity of the refineries of the country.

Q. What is to become of that 10 per cent. at present? Is it consumed in this country in addition to what was previously consumed or non-produced?—A. Non-produced to a great extent. There has been a slight increase in the production which would offset the diminished exportation in a measure.

Q. Have you, in your refineries, made any experiments with beet-root or sorghum sugar?—A. We refine beet sugar in the winter. The culture of that which you refer to is probably an agricultural experiment, not a sugar-refining experiment.

Q. Whence is that beet sugar obtained which you refine?—A. From Germany. The tariff discriminates against it and it is an unimportant quantity that comes here.

Q. Can you approximate the proportion of beet-root sugar that the refineries of this country consume during the winter months—the percentage approximately?—A. You mean the refined product of the beet sugar. No beet sugar is used direct. It all involves a refining.

Q. I mean the percentage of the production?—A. I think the importations last year were 100,000 tons; I am not sure. That would represent, say, 10 per cent. of the total consumption.

Q. Do you find any difficulty in re-refining beet-root sugar?—A. Yes, sir.

Q. More than that from cane sugar?—A. Yes, sir.

Q. What is the difficulty?—A. The potash salt is an obnoxious one and difficult to remove. The expense of refining it and in relieving it of the unpleasant taste, has very much deteriorated.

Q. About what per cent. greater, approximately?—A. I suppose you mean on the average?

Q. On the average, approximately?—A. I should say 15 per cent. It runs from 5 to 25, according to the quality of beet sugar.

Q. In answer to Mr. Smith you stated that this combination or trust had no bank through which its business was done. I notice that the deed provides:

The profits arising from the business of each corporation shall be paid over by it to the board hereby created, and the aggregate of said profits, or such amount as may be designated for dividends, shall be proportionately distributed by said board at such time as it may determine to the holders of the certificates issued by said board for the capital stock as hereinbefore provided.

Has occasion yet arisen for the use of that article of the deed?—A. No, sir.

Q. And that perhaps is the reason that the aggregation or combination has as yet selected no bank through which to do its business?—A. Your question has not come out naturally.

Q. I see, also, on page 16 of this copy, that—

This deed shall not be shown or delivered to any corporation, firm, person or persons whatsoever, except by express direction and order of the board.

Please state to me why that language is inserted in the deed.—A. I never paid any attention to it, except that somebody had been made custodian and that the lawyers put it in that shape.

By Mr. BRECKINRIDGE:

Q. You have been connected with the sugar-refining business for twenty years, I believe you stated.—A. Yes, sir.

Q. What branch of that business do you devote your attention to, or have you devoted your attention to, principally?—A. Principally the mercantile.

Q. The financial part of it?—A. Yes, sir; including the purchasing of sugar and the sale of sugar.

Q. More to that branch of it than to the refining part of the business?
A.—Yes, sir.

Q. Are you on the mercantile committee of this association or trust?
—A. Yes, sir; so called.

Q. What do you understand to be the practical objects and purposes of that association?—A. As far as the mercantile committee is concerned?

Q. No, sir; as far as the association is concerned.—A. They are set forth in the deed. They are expressed there better than I can express them.

Q. You simply refer to the deed?—A. Yes, sir.

Q. What, in your opinion, is the effect of this union of the corporations upon the consumers of refined sugars in general?—A. It has cheapened it so far.

Q. Am I to understand from that that refined sugars have been cheaper since this trust was formed than they would have been if it had not been formed, in your opinion?—A. Yes, sir.

Q. Have refined sugars been cheaper since this trust went into operation than they were for the corresponding period a year ago?—A. No, sir.

Q. What leads you to believe that they would not have been as cheap this year as they were the year before?—A. Cheapness is a relative term, and since the trust has been in existence sugar has advanced 1 cent in England and only half a cent here. If the trust had not been in existence sugar would have advanced a cent here in sympathy with them.

Q. Have raw sugars been higher in value in this country and abroad since this trust has been in existence than they were for the corresponding time a year ago?—A. For the corresponding period a year ago I am unable to state.

Q. Are you prepared to say that they have been higher during the period of the existence of the trust?—A. I would prefer to speak by the record if you will allow me, and refer to the record.

Q. I have no objection.—A. As compared with what time?

Q. With the same period a year ago.—A. They have been very materially higher.

Q. Raw sugars have?—A. Yes, sir.

Q. What is that to which you are referring?—A. To the evidence of the Commercial Bulletin man, whom you examined previously.

Q. That is his statement of quotations taken from the Commercial Bulletin, is it?—A. Yes, sir. The average per month.

Q. Do you attribute the advance in refined sugars in Europe to the advance that has taken place in raw sugars principally?—A. Yes, sir.

Q. Will you please look at the table you have and state what was the price of the grade given of raw sugars, say, the 1st of November.—A. What year?

Q. The past year.—A. Five-sixteenths of a cent.

Q. What grade is that?—A. It is called fair refining.

Q. What was the price at the same time in 1886?—A. Four and fifty-six hundredths cents.

Q. Where was that price?—A. In New York, November 1, 1886.

Q. New York was the market in both instances.—A. Yes, sir.

Q. What were the prices in Havana, at those periods, for the same

sugar?—A. They were that, comparatively the same, less the expense of getting the sugar here.

Q. What was the price of that grade of sugar in New York at the last date you have there?—A. February 21, 4.86 cents.

Q. What was the price on the same day and at the same place, of the same grade, in 1887?—A. Four and fifty-six-hundredths cents.

Q. The first quotation was what?—A. Four and eighty-six hundredths.

Q. And the latter four and fifty-six hundredths?—A. Yes, sir.

Q. What was the price of refined sugar at the period given in 1887?—A. Refined is not given.

Q. What effect do you think your union will have on the strikes?—A. I think the union will be the reconciliation between the workman and his employer.

Q. Do you think your union will occasion the necessity of labor organizing to secure men fair wages?—A. No, sir; just the reverse.

Q. In case the men should differ with you in that agreement as to what constitutes fair wages, would an organization on their part possess as much force and effect with reference to the refineries in this association as such an organization had before your consolidation?—A. Just as much and no more.

Q. And no less?—A. And no less.

Q. I understood you to say that all so-called raw sugars up to 13 Dutch standard have to be refined before they can be used by consumers?—A. Yes, sir.

Q. Do you remember how much raw sugar up to No. 13 Dutch standard is imported into the United States?—A. 1,200,000 tons a year.

Q. And all of it, I believe, is refined?—A. Yes, sir.

Q. What grade of sugar constitutes the bulk of refined sugar; that is, the most that goes into consumption after being refined?—A. The grade known as hard grade, which embraces granulated, cut-loaf, and all descriptions of hard sugars as distinguished from soft sugars.

Q. They usually run from what color up?—A. The finishing color of refined soft sugar is 20. Hard sugars are all considered in the category above that, although 20 is very white.

Q. Am I to understand from you, then, that pretty much all the sugars which are consumed are above No. 20?—A. No, sir; only 50 per cent. You ask me the greater proportion.

Q. Your belief, then, is that 50 per cent. of the sugars that enter into consumption is above No. 20?—A. Yes, sir.

Q. Will you please state between what two numbers the remaining 50 per cent. generally goes?—A. Twenty-five per cent. of the whole between 16 and 20, and about 25 per cent. between 15 and 16.

Q. The sugars above 20, I believe, usually go into domestic use and the manufacture of confectionery products, does it not?—A. Yes, sir; although it applies more particularly to confectionery consumption than it does to domestic purposes. What proportion goes to one and what proportion goes to another I can not name. I have seen the most expensive sugars, such as cut-loaf, in the poorest families, and I have seen the worst kinds of sugar used in the richest families. There is no way of determining where that consumption is made.

Q. What grade of sugar is principally used by the people who preserve fruits, such as peaches, plums, and fruits of that character?—A. Where a perfectly white solution is required white sugar is used.

Q. They generally use a high grade of sugar?—A. Yes, where a perfectly white solution is required. When the coloring solution in which

the fruit is to be preserved is not material they use the cheapest they can get.

Q. You have not an accurate or thorough knowledge of the manner in which sugars are distributed in consumption, I suppose?—A. Not to indicate it by percentages.

Q. You do not understand that as thoroughly as a man in the grocery business?—A. Yes; I think I understand all about sugar and its consumption a little more than a man in the grocery business; but I can not fix the percentage.

Q. You only sell to jobbers, do you not?—A. We sell to everybody, but not less than 10 barrels of one grade of sugar, and he puts his money up.

Q. Is there a market for your best refined sugar in England?—A. Granulated sugar, which constitutes nearly the entire exports of this country, was a product originated in America and introduced into England and established there. Now, since they have removed the drawback, the Englishman has it.

Q. You speak of the removal of the drawback. What do you mean by that?—A. The law prescribes that the sugar refiner shall have in drawbacks the equivalent of the duty paid. The determination of the Department on that subject has been to keep reducing it, and then they get it down to what they think it ought to be. That has been the operation of the different Treasury officials until it has culminated in an inadequate drawback.

Q. And there it rests?—A. And there, unfortunately for the interests of the people of this country, it rests.

Q. I understand you to say that the granulated sugar is made extensively in England at this time?—A. Yes, sir.

Q. How long has that been the case?—A. Extensively for about two years.

Q. What kinds of sugar have we exported abroad when we did export?—A. Prior to the manufacture of granulated?

Q. Of late years?—A. The bulk of the sugar, as I have stated, has been granulated. There has also been a slight exportation of what is called the cube sugar, and to the South American States of crush and cut-loaf.

Q. What was the price of granulated sugar in New York on February 1, 1883?—A. I believe $6\frac{1}{2}$ cents. I have not got those figures and I prefer not to answer except by the record; I can not carry them in my head.

Q. Do you know what was the price of the granulated sugar in England on the 1st of February last?—A. Yes, sir. On February 3, the date of the circular, it was 19s. 6d., equivalent to 4 cents.

Q. Nineteen shillings and six pence for how much?—A. One hundred and twelve pounds, equivalent to 4 cents per pound.

Q. That was on the 3d of February last?—A. Yes, sir.

Q. Will you please state to me what was the price of the same sugar in New York upon the same day?—A. Six and five-eighths cents net.

Q. Per pound?—A. Yes, sir.

Q. Sold in lots?—A. Sold to the jobbers.

Q. That includes discounts, and all that?—A. No, sir; it is net.

Q. What do you mean by "net"?—A. Sugar that is sold at $6\frac{1}{2}$ cents less $\frac{1}{2}$ per cent.

Q. So that the actual money the jobber would pay would be 6½ cents?—A. Yes, sir.

Q. Suppose he deducted the duty on granulated sugar. How would the price here compare with the price in London?—A. It would be the same at that particular time.

Q. Will you please give me the same figures for the 1st of February, 1887?—A. Seventeen shillings.

Q. In London?—A. Yes.

Q. That is equivalent to how much per pound?—A. 3.70 cents.

Q. That is 3.7?—A. Yes, sir.

Q. Is that 3 cents or 3 pence?—A. Three cents. I have reduced that to American money.

Q. That was the price in London for granulated sugar for the 1st of February, 1887?—A. Yes, sir.

Q. What was the price in New York for granulated sugar at that time?—A. I have not that. We were not informed that we would be asked as to prices. I would be very glad to furnish the gentlemen that.

Q. Have you any rate for 1887?—A. No, sir; I have not. Will you allow me to make a statement in reference to the difference in price?

Q. Yes, sir.—A. There has been no time in five years but what the price of granulated sugar, leaving off the duty, has not been cheaper to the American people than in England. That is likewise the case of every product of sugar of the American refinery.

Q. Will you please explain to me how that comports with the statement you made a moment ago—that the price now of granulated sugar in New York is the same as the price of granulated sugar in London, with the duty added to it?—A. Simply because under this so-called arrangement refiners, knowing exactly what it costs to produce sugars, do not over-produce so as to require them to sell it at a quarter of a cent less.

Q. To recur once more to that fact. What was the price at the latest period reported of the granulated sugar in London?—A. Four cents. The latest period was February 3, 1888.

Q. Tell us what that is?—A. I have given that—4 cents.

Q. What was it on the same day in New York?—A. With the equivalent of the duty taken off?

Q. I mean what was the actual price in New York to the consumer on the same day?—A. 6.62 net. If you take 1 cent off the English price it is only 4 cents net. If you take only 1 cent off the New York price it is 6½.

Q. You are giving the prices upon the same basis?—A. Precisely.

Q. Now, am I to understand you that 4 cents is more than 6.62?—A. It is about the equivalent, allowing for the duty.

Q. Of course you will not dispute the fact that 6.62 is more than 4 cents?—A. Now I know what you mean. I thought you wanted to show the parity between the different countries using the duty. The price in America has been greater than that of London, with the duty added, or including the duty. The price in America, in consequence of the duty, has always been greater than the price in London.

Q. Does it cost more to refine sugar here than it does in Europe?—A. Yes, sir.

Q. How much more does it cost here than in England?—A. I should think a quarter of a cent per pound.

Q. How much more here than in Germany?—A. A little in excess of that; a little more than a quarter of a cent.

Q. How much in Belgium?—A. I should say that was similar with Germany.

Q. Could American refineries compete with European refined sugars if all kinds of sugars were free of duty?—A. No allowance being made for protection against the difference of labor?

Q. I am talking about all sugar being put on the free-list?—A. I think it would annihilate the industry and be a terrible blow unless there was some protection.

Q. There is no protection when they are on the free-list?—A. I do not think it could exist.

Q. Could sugar be refined cheaper under this trust or union than heretofore?—A. Yes, sir.

Q. Who benefits by the saving of expense?—A. The consumer.

Q. Was this union organized in his interest?—A. Partially in the interest of the consumer. The more he eats, the more we work.

Q. And the cheaper he gets it?—A. The more he will eat, the more profit I will make.

Q. And the cheaper it is?—A. And the cheaper it is.

Q. Will there be as many men employed in sugar refining under the union as before?—A. There will be more, considering the time.

Q. Are the wages of the workmen as high since the union as before?—A. Yes, sir.

Q. What guaranty has the consumer that the price of refined sugar will not continue as high as the foreign price plus the freight and tariff duties?—A. There are a number of guaranties for that. First, as I said before, the cheaper we can furnish sugar to the consumer the more he will eat and the more we will refine. If we attempted to advance the rate of sugar we would increase the competition, and the consumer, if he did not like the product, in view of the tariff which Congress has kindly prepared for them, he can import his refined sugar at a cheaper rate than the manufacturer can get his raw, strange as it may be in this era of protection. There are three guaranties.

Q. I understand you to say there is a higher tax now upon raw sugars than there is upon refined?—A. There is a higher value ad valorem upon the raw than there is on the refined.

Q. Then you are discriminated against?—A. Sadly. On that account you may account for the twenty-two failures in the sugar business that have been testified to here.

Q. If you are discriminated against, then under the present construction of our law you have no protection?—A. No, sir; and under the proposed Mills bill we will not have as much.

Q. If you have run, then, under a system that discriminates against you, you have been running upon a worse basis than if you had been a free trader, have you not?—A. Yes, sir. When you ask me this question I am speaking here as the representative of a direct interest.

Q. You are speaking the truth. I do not care what you call yourself so long as you are stating the truth. Have you made any money in your business in the last ten years?—A. Do you mean Havemeyers & Elder?

Q. Yes, sir.—A. Yes, sir; lots of it. I do not believe anybody else has. I know that the Donner and De Castro Company, of which I am a stockholder, has lost under my management, too.

Q. How much sugar was exported from this country during the fiscal year ending the 30th of last June, or the 1st of July?—A. It is my impression about 100,000 tons. I would rather consult the record published by the Department.

Q. Did you or any of the concerns in which you are interested export any of that sugar?—A. The bulk of it, I believe.

Q. What countries did you export it to?—A. The bulk of it went to England.

Q. What grade of sugar was it?—A. The bulk of it was granulated.

Q. You exported it at a profit, I suppose?—A. The result of the exportation diminished the cost of my work, and in that way produced a profit.

Q. You say that most of it went from New York?—A. Yes, sir.

Q. Can you make granulated sugar cheaper relatively than you can any other grade of sugar that you turn out from that refinery?—A. It depends upon what you make it out of.

Q. Do you find it more profitable to run upon other grades of sugar than you do upon granulated sugar as a general thing?—A. In the winter time we make a great proportion of our product granulated, and in the summer time, when the demand is for soft sugars, we run low; and the run of the refinery upon this grade depends upon how cheaply we can buy the sugar in the raw material—one raw material against the other.

Q. Do you make the different grades of sugar out of the more general character of raw material?—A. No; every raw material results generally in its own grade of refined.

Q. You would select with care, then, from among the lower grades that which you wish to make the best of any particular high product?—A. Yes, sir; I would buy the sugar according to the product required, considering the margin between the two.

Q. What would be the determinative point in buying, say No. 12, where you designed one for granulated sugar and the other for the yellow sugar?—A. The yellow sugars are only made and can only be made from the low sugars.

Q. You would select, then, a higher grade of sugar as respects its saccharine strength for granulated sugar?—A. Yes, sir.

Q. Is that the only point of difference in making the selection, the only material one?—A. Yes, sir; the only material one.

Q. You have spoken about a policy of the Government in reference to drawbacks. I understand you to say that at present you do not get as great a drawback upon your exported sugars as you paid upon the raw sugars that entered into their manufacture?—A. That is true.

Q. When did you first experience this unfavorable discrimination on the part of the Government?—A. When they fixed the rate of drawback at 2.60.

Q. When was that?—A. The 1st of November, 1886.

Q. Has it been at that same figure ever since?—A. Yes, sir.

Q. How much does this discriminate against you?—A. There I draw the line. That would require a disclosure of my business to my competitors, and I would rather do without any drawback than to have my whole business disclosed to the advantage of another.

Q. Is there any remedy that you would like Congress to provide to protect you against that discrimination?—A. There is; yes. There is an enormous industry—

Q. Pardon me as to that.—A. I thought perhaps you would like to know about the remedy.

Q. You were describing the industry and not the remedy.—A. The drawback on sugar should be fixed by Congress and not by a Secretary of the Treasury, who may be an able man and may not be.

Q. I am very glad to have your opinion on that point.—A. We do not want our interest disturbed by whoever may happen to get into the Secretary's chair. We would like to have it fixed, stable,

Q. What do you think the drawback should be?—A. Equivalent to the duty paid.

Q. But if it is to be fixed by Congress, there must be a specification.

—A. Then I would have an investigating committee to determine that matter.

Q. I will ask you now, as an investigating committeeman, a question on that point.—A. Until the subject comes up differently than is assumed now, I must state to the committee that the disclosure would involve me in more injury than the allowance of any drawback whatever.

Q. It seems a little inconsistent to a man in his representative capacity to meet a gentleman who asks that we adopt a policy to benefit him in his business, the bearing and effect of which must be on the great body of the people, and then when we ask him for information by which we may measure with exactness the burden that we put upon those who buy from him, that he should take refuge in the plea that it is a private matter and of its being injurious to his business to disclose this.—A. The only information I could give you on the subject of yield, which would enable you to determine what the equivalent duty was on granulated sugar, would be from my own knowledge of my own refinery, and it would be to the injustice of every other man in the business, I think, if I gave that testimony, upon which the drawback would probably be fixed to his disadvantage, he not obtaining the same yield.

Q. I shall not urge the question, but I wish to find exactly what your position is as a refiner?—A. My position would be to determine what the yield was of all the refineries, and to give that under oath to the committee having the matter in charge.

Q. What was the amount of the drawback; I mean the rate of the drawback prior to the ruling of the Department that you operate under now?—A. Immediately preceding, it was 2.81.

Q. Has it ever been higher?—A. Yes, sir; very materially.

Q. When was it higher than that?—A. The drawback was 2.81 for a number of years preceding the reduction. I could not state the successive steps of this reduction. If you can tell me when John Sherman was Secretary of the Treasury I can locate it to the day, I think. He swept it off without any consultation with the interests whatever.

Q. Secretary Sherman swept off the drawback from 2.81 to what figure?—A. Oh, no; he reduced it to 2.81.

Q. And from the time of that decision until a later period?—A. Until the present incumbent, Mr. Fairchild.

Q. Made it what?—A. 2.60.

Q. And he made it at what time?—A. November 1, 1886. It is shown by his order, which I have here.

Q. What is the date of that order?—A. September 25, 1886.

Q. When was that last shipment of granulated sugar made?—A. I can not recollect, but I think it was a long time ago.

Q. How long ago?—A. I can say, some time last summer. It may have antedated that.

Q. Did you ship extensively last summer or spring?—A. I can not say; I am not familiar with the dates when these shipments took place.

Q. Can you give a general idea?—A. The information I get on that idea is not out of my office. It is out of that book.

Q. I am speaking of shipments from your refinery.—A. It is safe to conclude that the bulk of the shipments are from our house. But when they were made I can not tell you without referring to the data which is on my own books.

Q. I would like to have you state to me, approximately, when your last shipments of that character were made?—A. I have it not in mind at all.

Q. Is there any particular season of the year when you have been in the habit of making a shipment of that grade of sugar?—A. You mean previously?

Q. Yes.—A. Through the whole year, according to the market. Sometimes there would be a large exportation if the market favored it, while seasons would very much reduce them.

Q. I understood you to say awhile ago that at the approach of summer you manufactured more largely of the yellow sugars than you did during the winter months?—A. That begins about the first of April or May.

Q. Has it been your custom to make your shipments to England during periods of the year when you were principally making granulated sugars?—A. We have never shipped any sugars to England. Sugar is bought in the New York market for exporting.

Q. Is there any shipped by you?—A. Never.

Q. It is simply your sugars that are bought by other parties in the course of business as they buy for this market here?—A. Yes, sir.

Q. And you do not remember now, with any degree of accuracy, when you last made considerable sales to exporters of granulated sugar?—A. I do not. I can furnish it to the gentlemen if they would like it.

Q. I would be glad to have you furnish that.—A. Would you like to have it by the month?

Q. Yes.—A. How far back?

Q. Say the last three years?—A. Yes, sir; I will furnish that.

Q. Or two years.—A. Do you want it of my particular refineries or of the whole industry?

Q. I would like it to cover your entire industry.—A. Do you mean by "industry" then the whole industry?

Q. The whole industry; I do not wish to put you to trouble.—A. It is in the Treasury Department.

Q. I am speaking of your sales. They are not in the Treasury Department. Of course I can get from the Treasury Department all of the whole industry.—A. I understood you to say you wished me to furnish you with a statement of the entire sugars of the United States for the last three years.

Q. No, sir; I would not trouble you to do that. I spoke of the sales that you had made to importers. If you have no objection to doing that I would be glad to receive it; I do not ask you for the price.—A. I will furnish it with great pleasure, the prices included if you would like it.

Q. You can use your discretion about that. You have stated that the consumers of sugar in this country have got a guaranty against your putting sugar up to the price that it is in Europe with the freight and duty added, founded upon the unwisdom of you gentlemen making your business too profitable and thereby bringing on competition.—A. I said it was one of the guaranties against our putting the price above what he could import it for—the price above what he could bring it in for, plus his expense.

Q. You said, then, that sugars would be imported?—A. Yes, sir; that is one reason. The stimulation of the industry would be another.

Q. That, of course, would be a manifest protection to him?—A. Yes, sir,

Q. Whenever your price is advanced above what it can be laid down at, it invariably comes in?—A. Yes, sir.

Q. What guaranty has the consumer of refined sugars that you will not keep the price to him up to about the price at which refined sugars can be laid down?—A. The cost of manufacture here as compared with the cost of manufacture in England would be a guaranty.

Q. I do not see that that has any relation to the subject. You do not seem to comprehend my question. If a given grade of sugar can be imported, say at 6 cents, duty paid, laid down in New York, I understand very well from what you say as well as from my own apprehension that if you charge $6\frac{1}{2}$ or $6\frac{3}{4}$ cents that sugar would be imported, because that would be higher than the import price, duty and freight added?—A. Yes, sir.

Q. The question I now ask is not what guaranty the consumer has against your charging him more than it can be imported for, but only a little less than it can be imported for. You would not dare charge more than 6 cents if you could not get it. But what is to keep you from charging $5\frac{1}{2}$ cents?—A. How can I buy raw sugar, pay greater duty ad valorem on it and refine it at a greater cost of expense for manufacture per pound and have anything left as against the Englishman? Where is the margin you speak of between the cost, including the price of sugar and the duty, and this imported price, the duty and expense added? We make no money to-day, and I have told you the price was the same, and I have told you the price during the last five years has been cheaper.

Q. The price has been cheaper?—A. The price has been cheaper in America than it has been in England, to the great advantage of the consumer. Now he gets it at the same price and still he makes no money.

Q. I understand from you then that the consumer has but one guaranty, and that is that you won't charge more than the price of sugar abroad with the duty and freight added?—A. I can not. I would if I could.

Q. I am speaking about what guaranty he has. He has a guaranty that you won't charge him more than that, but he has no other guaranty that you know of as to what you would charge him?—A. That is the most effectual guaranty. Of course there comes the outside stimulation, the production of refineries not in the trust.

Q. Such an effect, I understand you to say, would be produced by an unwise enhancement of price, if the duty permitted it?—A. Yes, sir.

Q. Therefore his guaranty is a wise discretion on your part?—A. A wise discretion on our part, so far as our own interest is concerned, from the increased production of the refineries outside of the trust.

Q. The exercise of what you consider a wise discretion in placing your prices upon your commodities?—A. Yes, sir.

Q. You speak as a sugar refiner?—A. Yes, sir. I do not speak in any representative capacity.

Q. I am asking you individually for facts.—A. Yes, sir.

Q. What is the waste of saccharine strength in refining a pound of raw sugar?—A. It varies from 3 to 15, according to the grade.

Q. If it runs 90 degrees or above, the loss is very small, I suppose?—A. It is more at 90 degrees than below.

Q. You mean to say that if your raw sugar is of a very high degree of saccharine strength, your loss of saccharine matter is a larger per cent. than if it be a pound of raw sugar of low degree?—A. The loss of saccharine strength would be less.

Q. Do you mean what you state or what I state?—A. I mean what I state.

Q. I want to know whether it is a fact?—A. The loss in crystallizing it is proportionately less in a sugar of high saccharine strength than one that is below.

Q. It will run as high even as 15 per cent. in loss upon low grades of sugar, I believe you stated?—A. We have had it as high as that.

Q. I only want to get at the facts.—A. Yes, sir.

Q. Is it often that it runs a less degree of loss than the one you stated for high grades? What was that you stated?—A. Three.

Q. Well, then, three?—A. Seldom.

Q. The loss, then, is about three for the higher grades of raw sugar?—A. Yes, sir.

Q. What was the cost of refining a pound of raw sugar into a pound of refined sugar, granulated sugar?—A. You mean the mere matter of operation of it, the mere physical operation of it to refine it?

Q. Yes, sir; I would like to have it first on that basis.

(At this point. 2.30 p. m., the committee took a recess for three minutes.)

The recess having expired, the further proceedings of the committee were resumed.

By Mr. BRECKINRIDGE:

Q. I understood you to say that under the prevailing system of drawbacks you are a loser—it is unjust to discriminate against you?—A. Yes, sir.

Q. You do not desire, however, to state how much you are a loser?—A. Not at present.

Q. What is the cost of refining a pound of raw sugar into, say, granulated sugar. I mean "cost" based upon what would be called the current expenses of operating it?—A. The cost of refining a pound of sugar into the different products varies from one-half a cent to a cent and a half, according to the sugar used and the degree of operation to which the refining process brings it.

Q. From one-half a cent to a cent and a half?—A. Yes, sir.

Q. What are the various products?—A. Fifty per cent. of granulated sugar, soft sugars of different descriptions, and sirup.

Q. Three?—A. Yes, sir.

Q. But if you take a pound of raw sugar with a view of making granulated sugar, do you not convert it all into either granulated sugar or sirup.—A. No, sir; we resolve it into granulated sauce and sirup.

Q. You evidently make out of it more or less of three articles?—A. Yes, sir.

Q. What percentage of the product would be granulated sugar?—A. We don't figure those things in percentages. We never calculate it in percentages.

Q. How do you calculate it?—A. When the margin between granulated sugar and the cheapest raw sugar is greater we take the raw sugar and make the product out of it. In other words, we determine what is the cheapest raw sugar in the market and work that. Some refiners work exclusively the higher grade, because they can not work the lower. Our refinery works almost exclusively the lower grade, because we find more margin of profit in that than in the other.

Q. You find the lower grade more profitable to you than the higher grade?—A. The saccharine strength of any lower sugar is always better

to possess than the higher, and with one exception we are without competition for the lower grades of sugar, and always have been.

Q. Do you mean less competition among the buyers of that grade of sugar?—A. Yes, sir; I speak now of ten years past.

Q. You mean for the past ten years?—A. Yes, sir.

Q. During the past ten years?—A. Yes, sir.

Q. I presume, of course, you work a low grade because you consider it more profitable to do so?—A. Yes, sir; I believe we are the only ones, with one exception, that have the appliances for making it.

Q. Does it take special appliances to work it?—A. It takes an investment of five times the capital required to work the high grade.

Q. What grade of sugar do you usually work?—A. The work commences with the highest grade, small percentage, small proportion; likewise a small proportion of the intermediate, and then the bulk is of the lower grade of sugar, 85 and 100.

Q. Do you buy as low as 75?—A. The market does not vary a great deal. We buy all that comes here.

Q. Taking 100 pounds of sugar at 85 degrees of saccharine strength and working it with a view of making granulated sugar, what products would you get out of that 100 pounds of raw sugar? How many pounds of granulated and how many pounds of any other product, as the case may be?—A. I cannot tell you now. I would have to ascertain that.

Q. It belongs more to your brother's province?—A. He has no data different from what I have.

Q. Can he not calculate it?—A. He don't do the calculation.

Q. Who does?—A. I do.

Q. Then I come back to you. If you want to turn out 50,000 barrels of granulated sugar don't you know just how much raw sugar you must buy to produce those 50,000 barrels?—A. It might depend upon the different grades of sugar.

Q. Assuming that you can buy the grade 85, can not you tell about how much you would have to buy to make 50,000 barrels of granulated sugar?—A. Of course I must say, yes.

Q. And in making 50,000 barrels of granulated sugar would you not know about the number of barrels of sirup that would also be incident in the manufacture?—A. The purchase would be made on my knowledge of the subject.

Q. Would you not know the number of barrels of sirup which would be produced in the manufacturing of these 50,000 barrels of granulated sugar?—A. Yes, sir.

Q. And would you not know whether there would or not be any brown or yellow sugar incident to the process?—A. Yes, sir.

Q. And about how much?—A. Yes, sir.

Q. Then why can not you state the extent of the proportion of the products?—A. It is not a question of whether I can state it or not. I admit that I can state it.

Q. I understood you to say that you can not state what per cent. of the product would be granulated sugar.—A. I have not calculated the exact percentage. Of course the percentage could be easily determined.

Q. Is there any secret about it?—A. That is the secret.

Q. In stating the amount of the product?—A. Yes; that is the secret of the business.

Q. I imagined the secret was in the process and not in the result?—

A. That shows there must be some process. The other process is not patented.

Q. In other words you prefer not to state it?—A. Yes, sir; it only has a bearing upon the drawback, and I would rather sacrifice the drawback than to reveal our secret to our competitors.

Q. The drawback is a claim you make against the Federal Government? Do you propose to make the claim a secret from the Government?—A. I have not made a claim against the Government.

Q. You have not only made a claim, but a complaint.—A. I have declared to you that if my business is to be disclosed, between revealing my business and the drawback I would let the drawback go. The drawback is inadequate now. It protects the Government because no sugar is exported, and they probably will not push that investigation any further.

Q. The question of the drawback comes up incidentally and not intentionally at this point of my inquiry. The cost of conversion or of refining is a very material question in determining the amount that by a combination or any other mode you gentlemen going into a trust may be able to exact in the way of profits, that under a competitive system you would not be able to exact from the consumer.—A. I do not think it has any bearing upon this matter.

Q. I see no bearing on this matter except it be a matter of public policy to ascertain what effect it will have upon the whole body of the people when you gentlemen enter into a commercial combination. If you choose to enter into a combination for private theatricals or anything of that kind we care nothing about it; but if you enter a combination, under protective duties or otherwise, to exact from the people their earnings, we are here to find out the extent of that exaction.—A. That is just what the combination is not to do.

Q. That is your impression. But we are here to find out whether it is a fact or not, and I prefer to submit to the committee in executive session whether or not we shall insist upon Mr. Havemeyer revealing to us the cost of refining sugars?—A. I have stated that. The question which I have declined to answer, if my statement was tantamount to an objection, is the yield of the different products from the raw sugar which I melt. That varies according to the classes of raw sugar melted. If I told you of the best grade I would have to tell you of the intermediate and low grade; and the result of that would show that I was losing 10 cents on the best grade, and I was getting square on the next grade, and was making 60 cents a hundred on the low grade—a business which nobody in the world can manufacture but two. The exposition of those yields would be the basis upon which the Treasury Department would figure what the drawback should be.

Q. I am not speaking of the drawback.—A. I would rather do away with the drawback, as I have stated, than to reveal the secret.

Q. This committee is not dealing in drawbacks. That is entirely irrelevant and immaterial. It has just come up. It has nothing to do with our line of investigation. The reply, as I understand it, that Mr. Havemeyer makes, is that the cost of conversion is from a half cent to a cent and a half a pound on sugar?—A. According to the raw sugar used and the operation of the refining of the different grades.

Q. That is so general that it does not amount to anything, and I would like the committee to determine for itself whether or not it is satisfied with that character of reply.—A. I can not give them any more definite information if I spent four years at my books.

The CHAIRMAN. The question you have asked, of course, is the one the committee will have to consider, and I suggest before we reach that point that the question be read, that we may see what it does cover.

Mr. BROOKNIDGE. What I have embraced in my interrogatories bearing upon the matter of conversion or refining are these points: First, to know what are the products of a given grade of raw sugar, and the proportion to the whole that each product will bear; second, what is the cost upon a given basis of calculation of refining the raw sugars, respectively, into these products. [To the witness.] Do you prefer not to answer these questions?

The WITNESS. I will answer that with great pleasure.

Q. I will be very glad to have you do so.—A. The refined products of raw sugar depends upon the grade of sugar from which it is made, and the price varies according to the quality of sugar used. A more specific reply, in my opinion, no man who has been in any sugar business could give you. There is no way known to me of telling you how much sugar in different products can be got out of 96, 90, 85, and 80.

Q. I will not dispute any statement which you make as a statement of fact. I understand you then to say that if you have raw sugar of 85 degrees of saccharine strength you can not tell what per cent. of granulated sugar you will be able to produce from that grade of raw sugar. Is that correct?—A. I can tell you, chemically, how much you can get out of it.

Q. I want to know if you can tell me as a matter of fact. I do not care whether you go into it chemically or otherwise. I only want to know what the result will be?—A. You mean in a business way, consistent with business.

Q. Of course, I want a practical reply.—A. I doubt if I could give that information.

Q. Do you doubt your ability, or willingness?—A. I am perfectly willing, but I doubt my ability. For instance, there is a sugar that would not make granulated sugar.

Q. I have not asked you that question.—A. Yes, you have. You asked me what proportion of granulated I could make out of these different grades of raw sugar.

Q. From what grade of sugar can granulated sugar be made?—A. All made from the finest.

Q. Name one?—A. Ninty-six centrifugal sugar.

Q. Take it, then, on a basis of 96 per cent. of saccharine strength. If you bought a cargo of that sugar and ascertained the weight of it, could you not tell how much granulated sugar you might expect to get out of it?—A. My business is done on my experience.

Q. I am asking you for facts?—A. My experience is between 96 centrifugal and the price I get for my granulated I must have 1 cent a pound in order to make me whole; otherwise my business is going on at a loss. I can not tell you how much I get out of granulated, and there is no man living who could do it. It has never been done in any refinery.

Q. If you bought 1,000 pounds of 96 sugar you would not be able to tell, with any degree of accuracy, then, how many pounds of granulated sugar you might expect that, refined, would make, with a view of producing granulated sugar?—A. No; you could not. It would cost as many pounds in gold as the sugar you melted.

Q. You have never been able to find, in the course of your whole experience, what is the ratio that exists, then, between raw material and a given amount of refined sugar?—A. No, sir.

Q. All I want is your statement that certain things are facts.—A. When you ask me a question I do not want to appear as not answering it. Sugar at 20 standard, containing 98 per cent., can not be resolved into granulated. If we spent \$20 a pound it might be. Our business is done on a margin as to the price between granulated and the price to be paid for the different grades of sugar.

Q. I understood you to say a moment ago that you bought a certain grade of raw sugar for producing granulated sugar; that you desired to get a cent a pound more for your granulated sugar than you paid for your raw sugar in order to make a profit?—A. No, sir; I said in order to make me whole. I said I would have to buy centrifugal sugar at a cent a pound less than that paid for granulated sugar in order to get my money back.

Q. That is the cost of refining raw sugar into granulated sugar?—A. Not at all.

Q. What is included in it except cost?—A. Suppose you buy sugar testing 96, and you want sugar testing 100. Now, if you get at the equivalent there would be 4 per cent. loss there; that is, you would only be buying 96 pounds, and you would be selling 100 pounds. That would reduce that margin that I have named at a cent a pound by 22 cents. That has not anything to do with the cost of the refining. It is the difference between saccharine in raw and saccharine in refined products.

Q. Suppose you buy a cargo of raw sugars testing, say, 95 degrees or 96 degrees, and you propose to work it as far as possible into granulated sugar, and you have selected the raw sugar with special reference, to your entire satisfaction, to the making of granulated sugar, and you have laid it down at your warehouse, or at your refinery, 3 cents a pound for that raw sugar, what would you consider a fair and profitable price for the granulated sugar that you make out of it?—A. On the basis of 3 cents for raw and 4 cents for the granulated.

Q. Suppose you had paid 4 cents for the raw, what would you expect for the granulated as necessary for a fair profit?—A. I do not think that the price, the difference, would be affected by the change.

Q. You would want about 5?—A. Yes, sir.

Q. Now, that 1 cent between 3 and 4, and 1 cent between 4 and 5, has covered all the cost of refining, and embraces also profits?—A. There are no profits. I have already stated that we needed 1 cent a pound in order to make us whole.

Q. You are now entirely escaping the question I asked you. I asked you what price you would need in order to yield you a fair profit?—A. Anything over a cent a pound.

Q. Anything over a cent a pound would be in the nature of a profit?—A. Yes, sir.

Q. But up to a cent a pound you would consider that you were being made whole?—A. Yes, sir.

Q. What do you mean by being "made whole"?—A. The expense of working it; the difference in the amount of saccharine sold and saccharine bought, interest on capital, depreciation of plant, and everything entering into the literal expense of the business as an expense.

Q. Suppose you wanted to fill a contract for 100,000 barrels of granulated sugar, and you desired to make it from sugar of 96 degrees. How much raw sugar would you buy in order to fill that contract?—A. To start my works and make that sugar I could not do it at a dollar a pound. That sugar would be made in the ordinary operation of my works, which I have already told you involved a slight proportion of

high sugars, intermediate sugars, and the best grade of low sugars. The first product would be granulated and that would go towards the contract.

The CHAIRMAN. I do not think that that is an answer to that question.—A. I can not answer it, and I do not think any man can answer it. If I should ask a chemist to-day how much granulated sugar he could turn out of raw sugar he could not come within 10 per cent. of it. No science can demonstrate it.

By Mr. BRECKINRIDGE:

Q. Can you calculate it within 10 per cent?—A. On the basis of your question, no, sir.

Q. How far does your experience go in working up say, No. 96, if the product varies?—A. I do not think in all my experience we ever set out to show how many different grades of sugar we got out of a specific grade of raw.

Q. You have covered the cost of refining by your statement as to what composed that 1 cent margin, and you state that you are unable to give the other information. So I have nothing further to insist upon in that line.—A. An effort was made by the English, French, German and Belgium Governments a number of years ago to demonstrate the yield in refined sugar from a given raw sugar. The refinery was bought and equipped at Cologne and the operations extended over a long period with a result satisfactory to none of the countries.

Q. I understand that in this association that these gentlemen have formed the profits of the various refineries are deposited, to be divided out upon the basis of the certificates outstanding pro rata?—A. The profits of any one corporation is declared, or a dividend on the stock is handed over to these trustees, who divide it among the certificate holders according to their interest in the whole.

Q. That is to say, that if two-thirds of your refineries were operated at a profit and one-third were operated at a loss every holder of the certificates of this trust would receive some profit, provided the profits of the two-thirds exceeded the losses of the one-third?—A. That is practically it.

Q. What means have the two-thirds of the refineries to determine that the one-third who report a loss have not made a profit and pocketed it and not made a fair return to the trust?—A. I don't know that I can answer that. That covers the rights of stockholders to examine into their own affairs. It is more of a legal than a practical matter.

Q. Does it cover the rights of those who are stockholders?—A. Under this agreement?

Q. Yes.—A. The board hold the stock, as I understand it, and the certificate holders have their interest in it.

Q. That covers the right of the trust to examine into the operations of the different refineries?—A. No, sir.

Q. If it does not cover that, what does it cover?—A. It covers the right on the part of the trustees to vote that stock for whomsoever they wish.

Q. I am not talking about voting stock.—A. It covers the right on the part of the trustees to vote that stock for the directors of those different corporations, and those directors will probably ascertain the actual condition of the business.

Q. In other words, I understand you to say that the trustees would have the power to examine into the operations of any one of these corporations to see that they had not fraudulently disposed of profits or funds?—A. They have no such powers.

Q. Will you state where the power resides ?—A. The power of any corporation, as I understand it, resides in the officers of the corporation. They carry it on, and they undoubtedly have the power to investigate it.

Q. I want to know whether or not this association, from which emanates every piece of these certificates of stock, has any power as the trustee of all the stock to see that frauds are not perpetrated by one class of holders of certificates against another class of holders of certificates ?—A. Other than their power as stockholders which has been conferred upon them by the deed by which they get the power, I know of no such power that they have to ascertain fraud or not.

Q. I am not inquiring as to the source of the power, but as to the fact of the power ?—A. I do not know anything about the fact of the power.

Q. As a matter of fact—and I ask you to give an answer as a business man having some money invested in this enterprise, as I understand you have—have these trustees any power to prevent fraud ?—A. Not the slightest, outside of their powers as stockholders.

Q. Is that effectual ?—A. It certainly is effectual.

Q. Then they have the power ?—A. They have the power at the end of the year to change the direction.

Q. Of the whole affair ?—A. Of every corporation.

Q. They hold the stock in trust, and they have the power to vote all of the stock ?—A. Yes, sir.

Q. And, therefore, these trustees have only got the power that any stockholder would have to examine into the frauds that may exist in any part of the combination ?—A. So I understand it.

Q. You speak of the distribution of these profits. I understand from you that no profits have come into the hands of the trustees yet ?—A. No, sir.

Q. When will the period arise when these refineries may be expected to account to you for their profits, if they have any ?—A. When I expect it ?

Q. No, sir; I did not ask you when you expected the profit, but I ask you when the time will arise when it will be their duty to account for a profit, in case one of these corporations has made a profit, and to turn it into these trustees ?—A. That would depend entirely upon the directors as to when the profit, if any had been made, would be declared as a dividend.

Q. You have then no fixed period for turning in profits ?—A. No, sir. If the functions of this board are expressed in the deed, the deed will show it. Now, whether they exceed it or do not live up to it is a matter that I can not foretell.

Q. Except as a stockholder ?—A. I can not foretell it as a stockholder. I propose to do my duty according to the deed. There may be some legal matters which I do not understand.

Q. As a party who is interested in this combination, do you expect there will be considerable profits to divide ?—A. It is not a combination.

Q. Have not these corporations put their goods into the hands of what you call trustees ?—A. We have not.

Q. What have they done with the stock ?—A. They have no stock.

Q. What have the holders of the stock done with it ?—A. They have, according to that deed, united it.

Q. What you claim, then, is that the union is not a combination ?—A. No, sir; it is not. The stockholders have a community of interest in the whole.

Q. And you deny that it is a combination?—A. Yes, sir.

Q. It is a union at least. That is the word you employ, and you gentlemen are the trustees under and in this union?—A. Pursuant to this deed.

Q. I am not speaking of what it is pursuant to. You are the trustees?—A. We are the trustees of the stock.

Q. And you expect considerable profits to come into your hands as trustees?—A. There is no profit in the business now. Other witnesses have testified that there has been no profit.

Q. You have testified that you have made a good deal of money out of your business?—A. If my business was distributed among these stockholders there would not be any left.

Q. Do you mean to say, then, that with a profitable business you have deliberately formed what you call a union with a lot of stocks that you do not expect any profit from?—A. Business is getting finer every year. Our business has been increasing every year, and we thought it much more desirable that the money to be expended in the sugar business as a whole should be expended in point of fact where it could be most advantageously employed, and not be spread over every refinery with no advantage to any one.

Q. That is your opinion?—A. It is my opinion.

Q. Was it your desire to help the refineries, which you state were losing money, or to help yourselves?—A. Both.

Q. Did you expect the universal results would be that their losses would absorb your profits, or that there would be a common profit to all the certificate holders? Did you expect your profits to be absorbed by their losses?—A. I do not expect any refinery to make any material losses if they confine themselves to the sugar business.

Q. Did you or not expect the result of this union to be a source of profit or loss to the gentlemen engaged in it?—A. A profit, as compared with what had been in the business, certainly. What you call a profit and what I call a profit might be different.

Q. Did you or did you not expect to make greater profits by the investment of your interests in this union?—A. I thought the profits of the firm of Havermeyer & Elder would be increased by such an arrangement.

Q. Then, as a matter of course, if your profits would be increased, and you have just stated that you had profits before, there would be considerable funds coming into this trust or to these trustees to be divided among the certificate holders. Was not that your expectation?—A. That is my expectation; yes, sir. A man can look a great ways sometimes and not see what he is looking for; but the intention under this arrangement was to increase my profits in the sugar industry.

Q. And your expectation was that you gentlemen would have funds to pay to the certificate holders?—A. Let me explain it.

Q. Why not say "yes" or "no"?—A. That a fund would be received from these different companies?

Q. That profits would be received from these different businesses to be paid to the holders of these certificates?—A. Undoubtedly that is the expectation.

Q. You gentlemen, who are the trustees, are charged with the proper distribution of these profits, are you not?—A. Yes, sir.

Q. How do you expect to keep a proper account of the funds that are coming from these various sources, and to distribute those funds properly among this multitude of certificate holders, without having any cer-

tificate books?—A. We have certificate books; when we get any cash we will deposit it and open a cash-book.

Q. You will open some books, then?—A. Yes; and when we pay these certificate holders we will credit their account.

Q. You will keep a systematic account?—A. As far as necessary we will.

Q. You will at least keep a cash-book that will show the action of these trustees?—A. I do not know what form it may take. The trustees have a certain duty to perform in reference to moneys received and paid. How they will do it I can not tell.

Q. You propose that these trustees, as a whole, shall keep a systematic account with the holders of these certificates?—A. If necessary I should think they would.

Q. When do the refineries usually close for repairs—what has been the customary period in past years?—A. Between November and March.

Q. How long do they usually stay closed?—A. From a month to six months, according to the business.

Q. Are there any Boston refineries not in this trust?—A. Yes, sir.

Q. How many?—A. One.

Q. Is that operating now?—A. Yes, sir.

Q. You spoke of Mr. Searles consummating various transactions and of there being no objection made to their confirmation by these trustees. How did Mr. Searles get power to commit you gentlemen to a business transaction?—A. He never had any.

Q. How did he do it?—A. He never did.

Q. You stated that he did.—A. I beg pardon.

Mr. BRECKINRIDGE (to the chairman). You remember, Mr. Chairman, the testimony on that point, that Mr. Searles had consummated certain negotiations.

The CHAIRMAN. I think the statement of the witness was equivalent to this: That Mr. Searles, acting on his own responsibility and without authority from the board of trustees, entered into negotiations, and when he reached the point of agreement in those negotiations he reported the nature of this agreement to the members of the board of trustees and the stockholders concerned, who thereupon ratified what he had done.

The WITNESS. Precisely.

The CHAIRMAN. My inquiry was directed to seeing what authority he had incident to those negotiations, and the statement of Mr. Havemeyer is that he had no authority.

Mr. BRECKINRIDGE. That is all right. That covers the point that I wanted to know about.

The examination of Mr. Havemeyer was resumed by Mr. Breckinridge.

Q. Mr. Havemeyer, you speak, or I believe the deed does, of improving the knowledge that is possessed by some of the refineries and the means of refining sugars. That is one of the purposes of your union?—A. Yes, sir.

Q. If those refineries were to remain independent refineries would they not be less formidable as competitors if they did not possess the best facilities and the highest degree of information about refining sugars?—A. Not as competitors, no.

Q. The more ignorant the competitor the more formidable he is. Is that your statement?—A. If he is backed with cash, that will go a long way towards making up for ability.

Q. If he has cash and ability both, would he be more formidable than

if he had cash and not ability, or would he not?—A. Cash and ability as against cash and no ability?

Q. Yes.—A. The former would prevail.

Q. Suppose he had cash and poor abilities, or cash and good abilities, in which state would he be the more formidable competitor?—A. Cash and good abilities.

Q. Therefore, I understand you to say that when you supply those who are deficient in ability with good ability and those deficient in facilities with good facilities, that if they were still in an independent position they would be more formidable as competitors?—A. Yes, sir.

Q. Therefore, I understand you to say that one of the purposes of your union was to lessen competition between refineries?—A. Oh, no.

Q. You have then purposely made them able to compete with you more nearly than before?—A. Yes; that is the intention.

Q. Before they were perfectly free to compete with you?—A. Except the difference between intelligent and stupid competition.

Q. I am not speaking about degrees of competition.—A. That constitutes what you want to get at.

Q. I am the judge of what I want to get at. They were perfectly free to compete with you before?—A. And are now.

Q. And now?—A. Yes, sir.

Q. And you have then entered into an agreement by which their facilities are improved?—A. That is the intention.

Q. You have entered into an arrangement by which you consider the ability and management will be improved?—A. Yes, sir.

Q. You have left them with equal freedom to compete with you as the owners of independent refineries that they had before?—A. Yes, sir.

Q. Did you expect any other elements of competition to be increased by this union than those you have already added to your competitors? Have you also provided for divided counsels between the management of these concerns and yours?—A. Only so far as we, the managing officers of these different corporations, no matter what our capacity in each, have the privilege to consult with each other as to appliances and methods of refining.

Mr. BRECKINRIDGE (to the chairman). Did you question Mr. Havemeyer about the functions of the finance committee?

The CHAIRMAN. There was no finance committee developed. It was the mercantile committee.

Mr. BRECKINRIDGE. Mr. Parsons spoke of it as the finance committee once.

Mr. PARSONS. Refining committee, I believe, was the name.

Mr. BRECKINRIDGE. No; I am speaking of the finance or mercantile committee.

Q. (To the witness.) You are a member of the mercantile committee?—A. So called; yes, sir.

Q. What do you consider to be your functions and duties as a member of that committee?—A. To afford anybody connected with these different refineries all the knowledge in connection with sugar refining that I may have.

Q. What kind of knowledge are you supposed to have?—A. A great deal more than I have got.

Q. Will you give me a more specific statement than that?—A. Well, the probable course of the sugar market as far as a year hence, for instance.

Q. Have you anything to do, as a member of that committee, with advising the members of different refineries what lines of credit they are to extend to their customers?—A. That is to be considered. Nothing has been done as yet. We have not got the functions of the mercantile committee systematized, as it will turn out to be.

Q. But you expect that will be embraced among the functions and duties of that committee?—A. To do what?

Q. To advise them as to the commercial credits they shall extend?—A. Yes; to give them the benefit of all knowledge I may have.

Q. Are you expected to advise them about the prices they shall ask for the products they sell?—A. No, sir.

Q. Why not?—A. Because all advice as to products I propose to keep to my own organization.

Q. You propose, then, to give them the benefit of your wisdom and information about accepting good credits or bad credits, pursuing a wise or unwise commercial policy or credit policy, and to withhold it on the question of charging for the sugars they turn out?—A. Yes, sir.

Q. What do you propose to do about that?—A. Let them take care of themselves.

Q. Are you letting them take care of themselves when you advise about commercial credits?—A. That is hardly against the law. That is the distinction between a man subservient to the law and one who is not.

Q. So that you never expect to advise them as to the price they shall ask for any of their refined sugars?—A. No, sir.

Q. You do not expect to intimate that to them in any manner, shape, or form?—A. No, sir.

Q. And that is not understood to be one of the functions of the committee?—A. Not at all.

Q. Is it understood that it is a part of your duties and functions to advise them as to what they shall pay in making their purchases of raw sugars?—A. No, sir.

Q. Then this mercantile committee—I believe that is the term employed—is limited to advising them as to the credits they shall extend to their customers?—A. To all those matters pertaining to the different corporations and various branches which are not in conflict with the law.

Q. Will you enumerate what there is beside credits?—A. I will have to refer you to our lawyer, because since the time of this howl in the papers about trusts I have never taken a step without his advice.

Q. You have denied these functions?—A. I deny that the purpose of this trust was to do anything in contravention of law.

Q. I was not asking you about purposes. I was asking you as to the fact whether or not you did, or were expected to, advise the buyers of raw sugars and the sellers of refined sugars for these various refineries who are in what you call your union as to the prices they should pay, or that it would be wise to pay, and the prices they should charge, and I understood you to say no.—A. No, emphatically.

Q. And you say it is expected, however, that you will advise them as to the credits they shall extend to their customers?—A. That is a very immaterial matter, and I can see no objection to furnishing it. We will furnish anything not against the law.

Q. Why not advise as to purchases and sales?—A. Because I have been told that is against the law. That is not my function as a trustee.

Q. Can you name any activity in which you are likely to be employed as a member of this mercantile committee except as to advising these

various refineries as to credits they shall extend?—A. Well, a man might come to me and say, "I would like to raise \$100,000; where can I get it?" I would give him that information.

Q. Well, that is one of them.—A. You see, the thing is not developed as to what we can do or can not do.

Q. You are feeling around, are you?—A. Well, we want to do what we can lawfully, and to avoid what we may not do, and what it was not the intention to have us do.

By Mr. MCKINNEY:

Q. Do you, as a member of the mercantile committee, buy raw sugars?—A. No, sir.

Q. That is not part of your functions?—A. No, sir.

Q. Is there a committee or any individual persons connected with the trusts who do buy the raw sugars?—A. Not connected with the trust.

Q. Of these eleven men?—A. I buy raw sugars for my own company, as an officer of my own company.

Q. There has been, of course, raw sugar sold to be refined in these various companies, since this trust went into existence, purchased by the corporations?—A. Yes, sir.

Q. Has each corporation purchased its own sugars for refining?—A. Yes, sir.

Q. And has there been any cargo of sugar sold in New York to any of the various refineries where there was only one competitor—where there has been no competition?—A. There is no competition on the low grade, and very seldom has been. The competition on the other grades continues and always has.

Q. That is, there are as many buyers in the market now who are ready to purchase a cargo of sugar since this trust was formed as before?—A. Yes, sir; and a great many more now, because it has induced what we have never had before—outside speculation in raw sugar.

Q. And in regard to selling sugar, there is no committee or individual connected with the trust who has anything to do with the sale of sugar of the various corporations?—A. In no way whatever. The trustees have taken no other action under this trust than if the United States Trust Company had been the trustee; and I wish it was.

By Mr. CROUSE:

Q. I understood you to say that there was a certain kind of sugar that was an original product of the sugar refineries of the United States.

The WITNESS. Original product?

Q. Not an original product, but they learned how to do it first.—A. Oh, granulated.

Q. Yes, granulated. There was a time when only the refineries of the United States made granulated sugar for the United States, and, for that matter, for the world?—A. Yes, sir.

Q. And you exported for a time large quantities of that sugar?—A. Yes, sir; 10 per cent. of the entire product. Ten per cent. of the entire foreign sugar imported was exported in the shape of granulated sugar.

Q. I understand you to say that you could do that at a profit under the existing tariff laws as originally interpreted?—A. I could do that under the old rate.

Q. As originally interpreted?—A. As originally fixed by the Secretary.

Q. The Secretary interpreted the law in such a way as to enable you to do that?—A. The law empowers the Secretary to fix the drawback.

Q. Have you anything to do, as a member of that committee, with advising the members of different refineries what lines of credit they are to extend to their customers?—A. That is to be considered. Nothing has been done as yet. We have not got the functions of the mercantile committee systematized, as it will turn out to be.

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Q. As originally interpreted?—A. As originally fixed by the Secretary.

Q. The Secretary interpreted the law in such a way as to enable you to do that?—A. The law empowers the Secretary to fix the drawback.

The rate of drawback, in my opinion, should be fixed by Congress, and not left to an executive officer. Every succeeding officer in the Treasury Department has lowered the drawback. He will take up the paper in the morning and notice that there has been a large importation of sugar. He says immediately, the drawback must be excessive—down goes the drawback by stroke of the quill. John Sherman shut up a house over night without notice, that caused a loss of \$700,000.

Q. What was the draw-back fixed by the Secretary before this cutting down?—A. 2.81 per 100 pounds.

Q. I understood you to say before that that was the rate fixed by Secretary Sherman?—A. Yes, I think that was the rate.

Q. What was the rate prior to that?—A. I think 3, or 3.18, I believe.

Q. Subsequently it was fixed at 2.81?—A. Yes, sir.

Q. And still more subsequently at 2.60?—A. Yes, sir; under Secretary Fairchild.

Q. So that the drawback now fixed by the Secretary of the Treasury is such that it no longer enables you to export this kind of sugars?—A. Precisely.

Q. When the export trade was at it highest how large an amount of sugar was exported?—A. I can not exactly tell during what time this 10 per cent. of the whole, which I have mentioned, was exported in the greatest volume.

Q. In tons, what was the highest point reached probably that the American refineries exported?—A. In one year it was 120,000.

Q. And that was the highest point?—A. Yes, sir.

Q. What amount do they export now?—A. Well, literally none.

Q. Then I understand you to say that the American refineries, by reason of that being cut off, are really producing about that amount of sugar less than they formerly did?—A. That is the fact, making allowance for the enormous increase of consumption by the American people. The industry was stimulated by the opportunity to export sugar under what we all thought was a fair and legitimate drawback as fixed by the Department. Then it was reduced. Hence this depression, disaster, extinction of firms, etc. After a long period of years it began to revive. No sooner was it in a thrifty condition again than the Secretary makes the law and shuts up the houses and extinguishes the industry.

Q. At what period of time in the last three or five years, whenever it was, was the industry depressed to the greatest extent?—A. I think in 1887.

Q. That was the worst?—A. Well, we can not tell that. There were previous years when there were a great many more refineries and older plants. I can not draw the line between what you call depressions, because the ruin of one man who has five millions of capital represents the ruin of ten men of \$500,000 each; and you might think that the ruin of ten represented greater depression than the ruin of one; and yet it might be just the reverse—the ruin of one man with \$10,000,000 would be the greatest.

Q. I want to get at the period of greatest depression, and then ask you whether it was during that period that these failures, that several witnesses have testified to, took place?—A. Yes, sir; that has not been due entirely to the cessation or change of the drawback. That has been due to improved methods of manufacture largely.

Q. To what do the sugar refiners of the United States attribute this period of depression in their business?—A. Well, the price of refined

sugar has been a great factor in it. It has declined steadily for ten years, until last year it reached a point which represented about 30 per cent. below the cost of production, owing to the enormous production of all. That was one factor; improved methods another; cutting down the drawback another; labor strikes another; and the expenses attending them, such as increased cost of fuel, etc. All these aided in demoralizing the business.

By Mr. BUCHANAN :

Q. You stated in response to a question, I think by Mr. Breckinridge, that the increased cost in labor in America over that of England in producing a pound of sugar was about a fourth of a cent. If raw sugars were put upon the free list and refined sugars were charged with the duty of one-fourth of a cent per pound, would that afford you protection?—A. Only so far as the labor in the refineries was concerned. But when you take into consideration the labor that enters into every article that goes into a refinery in the shape of material, the protection would have to be at least one-half cent a pound.

Q. Additional, do you mean?—A. No; in all.

Q. You think, then, that with raw sugars on the free list and a duty of one half cent a pound on the refined sugar, you would be placed on a par with the refineries of England so far as labor is concerned?—A. I must admit that so far as labor is concerned that will be adequate.

Q. Would that put you on a par with the refiners of England so far as all the considerations are concerned?—A. No, sir.

Q. What would be the difference? What other elements enter into the calculation?—A. Oh, everything; take coal, for instance. Before the strike, it was \$1.50 a ton; now we pay \$4. Now, if the American refiner is to add in his prices the difference he pays on his coal, and the price of sugar is raised to that extent, we would be deluged with English sugar. Is that the intention of the Government? It costs twice as much here to erect a refinery as it does in England. I must make twice as much money proportionately. That must be compensated for. So that if the refining interest would be protected against outside competition, we need a cent a pound of duty—probably three-quarters of a cent would cover it. A half a cent a pound would represent labor not only in the refinery but all other branches.

Q. You mean not only the labor directly employed in the refinery itself, but the labor used in connection with all the material composing the refinery, etc.?—A. Precisely.

Q. I see by this deed, as represented in it, and having consented to it subsequently some eighteen firms and corporations located in New York, New Jersey, Massachusetts, Missouri, Louisiana, and, perhaps, one other State. Did each of those corporations have a capital for which capital stock certificates were issued to the stockholders, and did those stockholders upon entering into this union, as you call it—combination as it seems to me—surrender their certificates of stock in their respective corporations to these trustees, and these trustees in turn issue to the parties thus surrendering certificates under this deed, and in pursuance of its terms?—A. Precisely.

Q. And those certificates of capital stock thus surrendered, are they destroyed or are they held by the trustees?—A. They are held.

Q. And in whose custody are they?—A. I believe they are in the custody of Mr. Searles.

Q. Acting in what capacity?—A. Well, we left them with him. There has been no action taken to establish some person as the custodian of those certificates.

Q. And at the time of the meeting of the stockholders of these respective corporations for the election of directors, these trustees, taking the certificates thus surrendered, vote upon the certificates thus surrendered the names of those whom they would have to compose the board of directors of each corporation?—A. Precisely, qualifying them by issuing to the individual stock necessary for his qualification.

Q. Has this organization which exists in pursuance of this deed any corporate existence under the laws of any State of this Union?—A. No, sir.

Q. Is the sole charter or source of right to act by this combination contained in this deed?—A. Yes, sir; except as the law might indicate was their province as stockholders. These trustees are the stockholders.

Q. Is there any law of any State in the Union, that you are cognizant of, that authorizes any body of gentlemen to frame a trusteeship of this character, and to issue in their collective names as trustees certificates of the kind intended in this deed?—A. I believe that is a perfect document, and I believe that stockholders of these companies had the right to do as stockholders just exactly as they did.

Q. Have you been pointed by your counsel, or anybody else at any time, to any statute of any State of the Union which authorizes you to do what this deed contemplates shall be done, and what you have testified has been done in pursuance of its provisions?—A. I never was so informed by my counsel. I should prefer rather than to talk about legal matters to refer the matter to him.

Q. Each stockholder in each of those corporations then, as I understand it, to sum the whole matter up, holds to-day not the certificates of which he was the owner in his respective corporation, but the certificates of this board organized under and in pursuance of this deed. Is that true?—A. That is as I understand it. You know I am very unfamiliar with the legal aspects of the case.

Q. I am not asking now as to the legal aspect, but as to the fact—whether it is a fact that each of the stockholders of these respective corporations holds to-day, in lieu of his original certificates of stock in such corporation, these certificates issued by this so called board?—A. Yes, sir.

By the CHAIRMAN:

Q. What was the rate of drawback at the time of the exportation of the sugar?—A. 281.

Q. Now, is there any arrangement for paying out of the funds which come into the hands of these trustees from the profits of any of these corporations the losses on the business of any other corporation?—A. No, sir.

Q. You were sworn, Mr. Havemeyer, before the committee of the senate of the State of New York, were you not, upon an investigation in relation to this so-called sugar trust?—A. Yes, sir.

Q. Do you recollect being inquired of during the progress of that investigation as to whether anything had been done by your board of directors to fix the prices of raw sugars, or of the refined product?—A. No, I have no recollection of it.

Q. I will read to you from the reported testimony in that case on page 77:

Q. Has there on these several times when the board has met been any discussion as to prices?—A. In a general way.

Q. Has the result of that discussion been that a majority of the board has felt the prices of products should be so and so?—A. They have felt that the production should be limited.

Q. Have they stated that they felt that the price of the commodities, of the product, should be at that time a given amount?—A. No, sir.

Q. They have not had any such feeling as that?—A. No, sir; not that it should be fixed.

Q. And there has been no agreement of feeling at which raw material should be purchased should be a given sum?—A. There has been no fixed price.

Q. What do you mean by fixed?—A. No fixed price?

Q. But when they met on a given day there has been no agreement of feeling that the price that ought to be paid on raw material should, for that day or the next, etc., be a given sum?—A. They talked over it generally, but there has never been any price.

Q. Do they get an expression of the opinion of the majority of the board on that subject?—A. There is an opinion of the board on that subject. It is generally expressed.

Q. Whatever is talked over in that respect is not binding in that respect?—A. No binding force on the members of the board.

Q. Do you recollect those questions and answers?—A. Yes, sir.

Q. And is the statement contained in them substantially true?—A. Except as to what I may have said as to the organization of the board. What I mean by the majority of the board is that it was talked over by the gentlemen who, collectively, may have represented the majority of the board. I do not wish to have that construed as saying that the majority of the board made it. I will stand by that just as it has been read, however.

Q. There has been, then, discussion between members of this board, or a majority of them, as to questions of prices, I take it.—A. Their opinion as to prices generally.

Q. And have you ever known a case since this trust was formed where the price paid for raw sugar has differed from that which was the generally expressed opinion of those gentlemen as to the value of raw sugar?—A. Repeatedly.

Q. At the port of New York?—A. New York and Boston.

Q. By corporations whose stockholders had surrendered their stock to this board?—A. Yes sir; there are some of them who do not regard the opinion of the board in any shape or manner.

Q. But I ask you whether as a question of fact you know of any instance?—A. Yes, sir; I do.

Q. Will you state when and where it was?—A. I know of an instance where parties in New York and Boston did pay higher than was the general opinion of those in the board that the sugars could be bought for.

Q. Higher than it was generally understood between the members of the board was the market price?—A. Yes, sir.

Q. When was that?—A. I can not fix the date exactly.

Q. In what month?—A. I could furnish it exactly, but I do not recollect now.

Q. By whom was it paid?—A. I think by Dick and Meyer in one instance, Moller, Sierck & Co. in another, and the Standard Sugar Refinery in another.

Q. Do you know of any other instance?—A. I know that it repeatedly occurs. It has been demonstrated that even if these gentlemen wanted the price controlled they could not do it.

Q. I understand you to say that at this time, or up to this time, no books have been kept by this company except a stock-book and transfer-book.—A. That is all.

Q. And that no by-laws—that question has not been put to you, I believe, and I will ask it now—have any by-laws been adopted?—A. No, sir.

Q. The Havemeyer Sugar Refining Company was the owner at one time of two refineries, I believe?—A. It owns at the present time two refineries.

Q. At the time this deed was executed they had two?—A. Yes, sir.

Q. One of them, however, had been destroyed or injured by fire?—A. One of them had been partially injured.

Q. And was not in operation at that time?—A. No, sir.

Q. Has it come into operation since?—A. No, sir; they are closed up preparatory to building.

Q. So that at the time you took it into the trust they had but one in operation?—A. But one.

Q. Is that one in operation now?—A. I believe it is.

Q. I call your attention to the following questions and answers from the stenographer's minutes of the examination before the senate committee of the State of New York:

Q. Now, in these discussions where you were feeling of each other, did the members ever feel to see how they felt about the closing of any refinery?—A. Yes, sir.

Q. And they from time to time found that a majority of them felt that it was a wise thing to have certain refineries closed, did not they?—A. They felt that it would be wise to recommend the closing of certain refineries, and the suspension of work in others.

Q. And that was done by the board?—A. That was done at the recommendation of the board.

Q. I mean its recommending, the board recommended it?—A. Yes, sir.

Q. Well, now, was there no records made or record kept of what the board did in these respects?—A. I know of no record.

Q. Do you recollect the asking of those questions of you and your making those answers?—A. I do not recollect it, but that of course states what transpired.

Q. Is that a correct statement of the fact?—A. It was either done by the board or the committee. My recollection is now that the so-called mercantile committee made the recommendation.

Q. Will you state now whether, after hearing this testimony read, you recollect that you were examined on the subject by this committee in New York?—A. Yes, sir.

Q. You recollect the fact that you were examined on the subject?—A. Yes, sir.

Q. And having heard the questions and answers, are you satisfied that they are substantially correct?—A. Yes, sir.

Q. As you then stated it?—A. Yes, sir.

Q. You desire to be understood as saying that, and your recollection now is that the recommendation came from the mercantile committee, and not from the board?—A. I believe it came from the mercantile committee.

Q. The recommendation in those cases, I think you stated, referred to Moller, Sierck & Co.?—A. I believe that was all.

Q. Only one?—A. Yes, sir. The other was the result of conferences between Atkins and myself only.

Q. I will read you further from that testimony:

Q. Do you remember that at certain of these meetings you felt of each other, and you found a uniform feeling, at least of a majority, that it was wise to recommend a discontinuance of the running of certain refineries? Is that so?—A. Yes, sir.

Q. Well now, which refineries?—A. The Oxnard refinery, and the Moller-Sierck refinery; they were the only two, I believe.

Q. After hearing that, sir, do you recall the fact that the closing of the Oxnard refinery was due to the recommendation of this board?—A. No, sir; I am satisfied that refinery was closed before this agreement went into practical effect.

Q. By practical effect do you mean before it was signed?—A. I will not say that. My recollection is that I signed this deed about October 24. It may have been prior to that, but nothing was done under the deed, and no steps taken until the schedules annexed were examined, and it took a month to examine them.

Q. And the Oxnard refinery closed during that month?—A. Either that month or before that. It had nothing to do with it in any practical way. It had no reference to this trust.

Q. So that your testimony on that subject in New York was erroneous as regards the Oxnard refinery, as you now recall it?—A. I am quite confident it was. The Oxnard refinery employed about sixty men.

Q. Do you recollect, Mr. Havemeyer, of being interrogated on that occasion with reference to the purchase of the stock of other companies?—A. I recollect being examined, but I have no recollection of my testimony whatever.

Q. Well I will read to you from the record to refresh your recollection :

Q. But if they could agree with the stockholders of the other corporation; was absolute, unlimited power given to the board to make such an agreement without reference to limit of amount or price?—A. As I understand it, the board had the power to exchange certificates for the stock of other sugar-refining companies upon terms and conditions which should be agreed upon.

Q. Between them?—A. Between them.

Q. And that board subsequently did agree substantially with stockholders of other companies for such exchange of stock as you speak of?—A. They did.

Q. And you are a member of that board?—A. Yes, sir.

Q. As a member of that board you have taken part in such an arrangement, have you not?—A. I have.

Q. As a member of that board what else have you done?—A. Oh, I have convened and talked.

Q. You have convened and talked?—A. And adjourned.

Q. Well, you have convened and talked?—A. And adjourned.

Q. Well, what have you talked about?—A. Statistics.

Q. Did you pass any resolution?—A. No, sir.

Q. Did you take any votes?—A. No, sir.

Q. Did you make any decisions?—A. No, sir; I think not.

Q. How, then, if you had agreed to issue certain amount of stock of your certificates for the stock in any other corporation, how was that agreement arrived at by the board?—A. Well, we generally followed the recommendation of the majority.

Q. How did you get at the recommendation of the majority except by vote?—A. Well, we felt the sense of those who were there.

Q. How did you feel it?—A. Asked them how they felt.

Q. Was there any record kept?—A. I know of no record.

Q. Then you asked a majority of your board how they felt, and when they said how they felt on buying the stock of another corporation that was all that was done, was that it?—A. And the resulting recommendation.

Q. Well, who then carried out this recommendation; who then went to the other stockholders of the other company and said, "We will give you so much for your stock"? Who did that, how was that done?—A. I did not do it.

Q. Well, don't you know how that was done? Was there somebody designated to do it?—A. The secretary generally did that business.

Q. The secretary was directed to do it? Did the agreement contain any provision for filling vacancies in the board?—A. I believe it did.

Q. After hearing that testimony, Mr. Havemeyer, I ask you whether you recollect that the transaction with regard to the purchase of the other stocks took place in the way described in the testimony which I have just read to you, or whether your recollection remains clear that it was as you have said here to-day?—A. I think they are substantially the same.

Q. Then what I have read in your opinion states the correct fact in regard to how that transaction was consummated?—A. Yes, sir.

By Mr. BUCHANAN :

Q. The certificates of stock which were issued upon the surrender of the certificates of the corporation stock, was that transfer made dollar for dollar ?

The WITNESS. You mean face value of the stock as against face value of the certificate ?

Mr. BUCHANAN. Yes, sir.—A. No, sir.

Q. How was it made ?—A. By agreement.

Q. A person surrendering a face value of \$1,000 in one of the corporations received a face value of how many dollars in the trust certificates ?—A. Well, that varied necessarily.

Q. What caused the variance ?—A. Sometimes the property was capitalized for one-fifth of what it cost, and if the man got that cost in certificates, although he got full value, he might have received two or three times as much as the face value of the stock. In other words, the face value of the stock has nothing to do with the value of the property.

Q. The certificates were issued then according to the value of the real and personal property of each corporation ?—A. They do not exactly correspond. It has appeared through the testimony of another witness that the value of the entire property was about 70 per cent. of the outstanding certificates, and the rest was accounted for.

Q. What was the rest ?—A. Good-will, patent processes, improved machinery, etc. It represented a certain amount of skill also.

By the CHAIRMAN :

Q. Mr. Havemeyer, have you the prices in your mind so that you can tell me ? I see a statement here [referring to a report of testimony taken before New York State senate committee] which attracts my attention, that the price of fair refined sugar in New York was $4\frac{1}{2}$ on the 1st of October, or about that time.—A. I can not confirm it. I see no reason to doubt it.

Q. And since that time it is less than that, as I understand. What is the price of refined sugar ?

The WITNESS. Fair refining ?

The CHAIRMAN. Refined granulated.—A. Six and five-eighths net.

Q. And what was it on the 1st of October ?—A. Not less than that. I think it was the same. I think the raw sugar is a little higher to-day than it was then.

By Mr. BRECKINRIDGE :

Q. How much sugar is consumed in the United States ?—A. Three thousand million pounds.

Q. How many men are employed in the refineries in this country ?—A. I understand about 25,000.

Q. That is, those in the trust ?—A. Yes, sir.

Q. Do you know how many are employed outside of the trust ?—about half as many, I suppose.—A. I should say about 5,000 in round figures.

Q. Then there are something like 30,000 men altogether employed in the sugar industry in this country ?—A. Yes; but that does not take in men employed in the industries collateral to the sugar industry, such as cooperage, staves, lumber, coal, etc., not to speak of the commerce or vessels employed to carry this product.

Q. What is the usual freight rate on sugar from Havana to New York ?—A. An eighth of a cent a pound.

Q. Do you know what is the usual rate of freight from Havana to London?—A. It is very high; more than twice that.

Q. What is the usual rate on exports of sugar from New York to London?—A. Seldom less than a quarter of a cent a pound.

Q. Is the rate from New York to Havana higher than from London to New York?—A. Yes, sir; for the reason that there are no regular lines of communication.

Q. Do you know whether it is twice as high?—A. More than that.

Q. Do you know whether it is three times as high?—A. Very nearly; yes, sir.

Q. The combined expense of reaching London from Havana, by way of New York, is, then, a little more than reaching London direct from Havana?—A. Yes, sir.

Q. The combined freight to London, by way of New York, is a little more than the freight from Havana to London?—A. About the same, I think.

Q. Additional charges are incurred in handling in the port of New York if this product is refined there and shipped again to London?—A. Yes, sir; and the most important of those would be under the regulation of the Treasury Department, whereby they charge 3 cents per hundred for weighing, when it does not cost them 3 cents per 10,000 pounds.

Q. How much do you estimate the additional charges amount to on a pound of sugar considering the insufficiency of the allowance of drawback, the handling and charges of all kinds incurred in and about the port of New York?—A. The 1 per cent. on the drawback is 2½ cents.

Q. On what?—A. On the 1 per cent. allowed. The drawback is 2.60 less 1 per cent.

Q. You do not comprehend my question; what I mean to get at is the amount of expense incurred, not the amount of drawback given you. If you bring sugar from Havana to New York, and refine it in New York, and then ship it to London, you have incurred certain expenses on that sugar independent of the mere process of refining?—A. Yes, sir.

Q. Those expenses consist of freight and of handling at the wharf, and of some fees, perhaps?—A. Lighterage—

Q. Of lighterage?—A. Marine insurance—

Q. And of certain losses by reason of insufficiency of drawback?—A. Yes, sir.

Q. Now, leaving out the element of freight, how much would you say these losses, charges, and all, amount to per pound when placed, say, upon refined sugars?—A. I think one-eighth of a cent would cover them all. It depends somewhat upon the amount of sugar involved.

Q. Then there is some discrimination against you upon the score of freight—one-eighth of a cent on the score of these other items—and in the face of this discrimination— —A. (interrupting.) The difference in freight I have not stated. I told you that was about the same.

Q. Assuming that to be so, there is a net discrimination of fully one-eighth of a cent a pound, and yet, although handicapped by charges amounting to one-eighth of a cent more than the English refiner has to stand, you send your sugars over there and undersell him?—A. I have not given that one-eighth as the difference. I gave it as the charge incurred here in preparing sugar for export; but what relation that charge bears to the charge the Englishman has to pay I do not know. I should not think they differed much.

Q. The Englishman does not lose anything on account of drawback ?
—A. But he has to store his sugar and pay lighterage fees, etc., the same as I have.

Q. Assuming he has some harbor charges and all that, he only has the charge incurred in bringing the sugar to the refinery, and not in carrying it back to the ship. There is, you say, some discrimination against you ?—A. No, sir ; there is not any in fact. The transportation of sugar for export from my refinery has no more charge upon it than there is on a similar amount for the domestic trade.

Q. Then you do not have to export under any disadvantage ?—A. Nothing, except as to the—

Q. Insufficiency of drawback ?—A. Yes ; and the regulation which exacts 3 cents per hundred for weighing sugar. In other words, the Treasury Department charges me about 9 or 10½ cents per barrel according to the weight for doing what could be done for a quarter of a cent.

Q. How much do you estimate that discrimination amounts to in money ?

The WITNESS. As against England, you mean ?

Mr. BRECKINRIDGE. Yes.

A. Not over 5 cents a hundred.

Q. Well, it is that much ?—A. Yes, sir.

Q. Then you are discriminated against, as you now say, to the extent of 5 cents a hundred ?—A. Besides the inadequate drawback.

Q. And that amounts to how much a hundred ?—A. I have not got as far as that.

Q. Something considerable ?—A. Yes, sir.

Q. That is additional discrimination against you ?—A. Yes.

Q. Now, you do not deny the fact that for a number of years you have sold those sugars freely in the English market ; that is a matter of official record ?—A. I would do it rather than stop our works ; I would rather lose a quarter of a cent a pound that way than by stopping our refinery increase the expenses on the whole of our product a quarter of a cent a pound ; that is the advantage of a drawback ; it permits a man to market his surplus and not close his works.

Q. Do you reveal to the Government what you ought to get as drawback ?—A. No, sir ; I do not.

Q. Then how do you get a just basis ?—A. We do not.

Q. How do you expect to get it unless you reveal the facts ?—A. I would like to get it out of the hands of the Secretary of the Treasury, with all due respect to the present incumbent, for whom I entertain the highest respect, into the place where I think it belongs, Congress ; if they are going to legislate on this subject they might as well include that.

Q. The Secretary of the Treasury does not know precisely what the drawback ought to be, and if, as you tell us, you do not reveal those facts which form the basis of an estimate, what protection has the Secretary of the Treasury against frauds in drawbacks ?—A. Well, he has the protection which he has arbitrarily assumed, of making it so low that there can be no fraud.

Q. And that is all the protection you know of ?—A. Yes. Remember, I do not wish to say anything to reflect upon the Secretary of the Treasury. I am only trying to point out that, in my judgment, Congress should fix the drawback, and that it should not be left in the discretion of one man.

Q. You would have Congress fix that drawback at a given figure?—

A. I would have Congress, by a proper committee, ascertain what the drawback should be and fix it definitely.

Q. At a specific amount?—**A.** Yes, sir.

Q. At present you see no means the Treasury Department possesses, except by the exercise of its discretion in limiting the amount of the drawback, to prevent fraud?—**A.** That is correct.

Q. And you mean to say that in the face of the losses and expenses that have been incident to your export business—the discrimination against you—you have for many years maintained an extensive export trade, and yet you could not afford to manufacture, to refine sugars into granulated sugars, if there were free trade in sugars?—**A.** That is pretty complicated, I think.

Q. Suppose there was free trade in sugar and all sugars should be free, would it kill you?—**A.** It would obliterate us.

Q. How do you explain, then, this export trade?—**A.** I am talking now of the whole sugar industry, not of one or two refineries.

Q. Would it obliterate your refinery?—**A.** How do I know? I have never worked under free trade.

Q. You are talking about rates and margins, and this is the whole basis of this inquiry, as a matter of course. It is the limit the law will permit you to fix upon consumers.—**A.** The limit the law would fix as the limit to the consumer in the event of free trade would be all I could get between what I could manufacture my sugar at and what he could buy it for elsewhere, whether a quarter of a cent or what it might be, and I would take it out of him.

Q. Will you explain how your own business would fail to maintain itself in the face of the fact that you conduct an export business under the conditions that you now say you do if there were no tax upon the raw sugars and no tax upon the refined?—**A.** If it was conducted in the same way, probably in the next few years more refineries would go out of business.

Q. Are you not evading? I was talking about your own individual business.—**A.** My individual business is to take the lowest quality of sugar—the lowest raw material—and refine it to the best of my ability; and, with one exception, I am the only refiner in the world who does it.

Q. Is that the only answer you have to give to the question I asked you?—**A.** Under free trade I am not prepared to admit that Havemeyers & Elder alone could not hold their own, although they would do it at a great disadvantage. Now, the other refineries I do not think could. It would obliterate them.

Q. You think that perhaps your own refinery could possibly hold its own?—**A.** I will not deny that it could.

By Mr. BUCHANAN:

Q. Are you anxious to try the experiment?—**A.** Why should I? Certainly not. I do not see why, when I have an ability that may be better than my competitors, the United States should obliterate that, and give the other man the benefit of the best means, knowledge, and skill. I would not shut up my refinery on account of free trade until I had demonstrated that Havemeyers & Elder could not refine sugar anywhere in the world.

Mr. BRECKINRIDGE. I am only seeking industrial facts, not discussing the merits of the proposition.

(The witness was then dismissed.)

Mr. BUCHANAN. I want to know what effect this combination has had upon the employment of labor.

Mr. McKINNEY. They have offered to send that.

Mr. BUCHANAN. Before they go I would like to have that information.

Mr. SMITH. And I would like to have the average rate of wages paid.

The CHAIRMAN. I think if the committee will go into executive session we can dispose of these questions.

The committee then went into executive session, and after fifteen minutes spent therein, adjourned until 11 a. m. on Monday, March 12, 1888.

WASHINGTON, *March 12, 1888.*

The committee met at 11 o'clock a. m., pursuant to the adjournment of Saturday. Present, the Chairman and Messrs. Breckinridge, McKinney, Grimes, Hopkins, Smith, and Buchanan.

TESTIMONY OF GEORGE H. MOLLER.

GEORGE H. MOLLER, being duly sworn by the Chairman, testified as follows:

By the CHAIRMAN:

Q. What is your full name, please?—A. George H. Moller.

Q. Where do you reside?—A. In the city of New York.

Q. What is your business?—A. Sugar refining.

Q. How long have you been engaged in that business?—A. I have been actually engaged in that business about thirty years.

Q. Are you now engaged in it?—A. No, sir.

Q. When did you go out of it?—A. We sold out about the 1st of December.

Q. Were you one of the officers of the North River Sugar Refining Company?—A. Yes, sir.

Q. Was that the only concern with which you were connected in the sugar refining business up to December last?

The WITNESS. How the only refining business?

Q. Was that the only concern in which you had any interest?—A. Yes, sir.

Q. For how long a time had the North River Sugar Refining Company been carrying on business?—A. Since 1865.

Q. Prior to that time what concern were you connected with?—A. Prior to that time the business was carried on under the firm name of Moller & Martin.

Q. For how long before?—A. From 1858 to 1865.

Q. And then the firm of Moller & Martin was succeeded by the North River Sugar Refining Company?—A. No. I am afraid I am a little mixed there. The North River Sugar Refinery started in 1866, but the Moller and Martin Company still went on, and in 1873 the North River Sugar Refining Company bought out Moller & Martin, and it was amalgamated into one company.

Q. So that the North River Sugar Refining Company succeeded to the business of your firm, and that occurred in 1873?—A. Yes, sir.

Q. Whereabouts was the refinery of the North River Company?—A. In New York, at the corner of Water and Corlear streets.

Q. Had it always been there?—A. Moller & Martin had always been there, but the North River Company started in Roosevelt street, but

when the North River Company bought up Moller & Martin they gave up the Roosevelt-street business, and went over to the Moller & Martin refinery and enlarged it.

Q. So that up to 1873 the North River Company had carried on business at this place?—A. Yes, sir.

Q. Had it been in continuous operation up to that time?—A. Except for a month or two, when we stopped.

Q. When you stopped, was your stoppage for repairs? A. Not always.

Q. Had you ever stopped for any other reasons?—A. Yes, sir.

Q. Do you recollect when they were?—A. If I recollect right we stopped in December, 1886, and went to work again in 1887.

Q. And that was not for repairs?—A. No, sir; we did make repairs, but we did not stop for repairs.

Q. You stopped because the business was not profitable, did you?—A. Yes, sir; and what repairs were necessary we did in that time.

Q. Do you remember any other occasion that you stopped for any other reasons than to make repairs?—A. No, I do not remember exactly.

Q. This North River Company had but one refinery?—A. Yes, sir.

Q. What was the par value of the capital stock of your company?—A. Three hundred and fifty thousand dollars.

Q. And they owned the entire property?—A. Yes, sir; that is, they owned it. I do not know what you mean by entire property. Do you mean all the property used in sugar refining?

Q. They owned the refinery, did they not?—A. Yes, sir; but they leased some property, which they used for warehouses, stables, etc., but the refinery itself and the ground was the property of the North River Refining Company.

Q. And the plant?—A. What do you mean by plant?

Q. I mean machinery?—A. Yes, sir.

Q. Were these leases you speak of for long terms of years?—A. Yes, sir; they were made in 1873 for ten years, and when that was up they were renewed for ten years longer.

Q. How much property did you hold in 1887 under lease?—A. Six small lots, 20 or 22 by 75.

Q. Were they covered by warehouses and stable buildings?—A. There were houses on them, I think, for storing raw sugars, milling purposes, etc.

Q. Were they in connection with your refinery?—A. They were across the street.

Q. Something has been stated here during the progress of this examination about the property of your refining company being taken, or about to be taken, for a public park. As I understand it, the legislature of the State of New York, in the session of 1887, passed an act requiring or authorizing the city of New York to lay out certain small parks in the lower part of the city?—A. I think it was prior to 1887 that such a statute was passed by the legislature of the State of New York.

Q. And that law authorized, as you understand it, the board of street improvement, or street openings, to locate those parks, and the parks were to be laid out within certain limits?—A. Yes, sir.

Q. And acting under that authority, did the board of street improvements of the city of New York lay out a park which included the property of the North River Sugar Refinery?—A. I am so informed.

Q. Did that take in your leasehold property as well as what you owned in fee?—A. Yes, sir.

Q. So that all the property which you had came within the boundaries of that park?—A. Yes, sir.

Q. Had not all the stock of the North River Sugar Refining Company been sold within a year prior to December, 1887?—A. No, sir; oh, you mean prior to 1887. Yes, sir.

Q. Some of it had been sold?—A. Yes, sir.

Q. At what price?—A. I think the last was at 106.

Q. Do you remember when that sale was made?—A. As far back, I think, as 1882 or 1883.

Q. Then there had been no sale in the year preceding December 1, 1887; that is, no sale since December 1, 1886?—A. No.

Q. Now, Mr. Moller, you had been familiar with the course of the sugar business, of course, over all the years you have been engaged in it?—A. Yes, sir.

Q. And familiar with the kinds of sugar used by refiners?—A. Yes, sir.

Q. That is, the kinds bought by them?—A. Yes, sir.

Q. And the kinds imported into the port of New York?—A. Yes, sir.

Q. Will you state, please, with reference to these raw sugars, what varieties or kinds of sugar are imported into the port of New York?—A. In the first place, centrifugal sugars. They are sold always at 96 test. That is the standard; and when it is over 96 you have to pay so much more, say, 4 or 6 cents a hundred, as agreed upon, and when it is below that you have to make the ratio accordingly.

Q. Are centrifugal sugars sold by the polariscope test?—A. Yes, sir.

Q. That is, they contain 96 per cent. of saccharine matter?—A. Yes, sir.

Q. Then what other sugars are there?—A. Then there is the muscovado; that is also sold.

Q. What is the test as applied to good or fair refining sugar?—A. From 88 to 90 or 91; the average is about 89.

Q. Is there any other?—A. Yes. Then there is what they call common refining.

Q. Is that a muscovado?—A. Yes, sir. You get West India sugars of that grade, and Manilla sugars; they are considered as common refining sugars. There is a large amount of that imported.

Q. Now, the distinction, as I understand it—it probably is plain enough, but we will put it on the record from you—the distinction between centrifugal sugars and muscovado sugars is in the process of manufacturing?—A. Yes, sir.

Q. The centrifugal sugar has been freed of its molasses by the use of a machine known as the centrifugal machine?—A. Yes, sir. If you will allow me to explain, I will state that the centrifugal sugar, so called, is boiled in a vacuum-pan.

Q. That is, the sap is poured into a vacuum-pan?—A. Yes, sir; and that enables you to make sugar of a far larger grain. You have it under your complete control there. You can make it large or small. By that process the molasses is thrown off until the sugar is dry, and then it is a large crystalline mass of sugar—pretty nearly all pure sugar.

Q. What proportion of the whole importation during the past year has the centrifugal sugar been?—A. I would not be able to state exactly; I could only guess at that.

Q. What is your best information?—A. I might say 40 per cent.; I might be wrong in that.

Q. And the balance, I presume, is muscovado sugar?—A. Yes, sir.

Q. In the ordinary process of a refinery—making sugars—as you make them, and your competitors in business make them, which do they use the most of in each melting?—A. That all depends upon what grades of sugar a refinery would make. For instance, we would use about 30 per cent. of centrifugal sugars and 55 per cent. of fair refining, the balance common refining.

Q. And from that what do you make?—A. All kinds of sugar; cut-loaf sugar, granulated sugar, white A, small A, yellow sugars, and sirup.

Q. The higher the grade of the product the more centrifugal sugar there is used, the higher the average grade of the product given to the refiner the more centrifugal sugar is needed?—A. Well, it would be very impracticable if you used low-grade sugar for a high-grade product. It would be impracticable to do it.

Q. The loss would be too great?—A. The expenses would be too great.

Q. About what, averaging it, is the cost of manufacture, taking the ordinary raw sugars and producing refined sugars; what is the average cost per pound?—A. We have never operated in that way, and I do not believe any refiner does, for when he refines his sugars he always uses good sugars in conjunction with poor sugars. I do not believe any refiner would use common muscovado sugar of that kind and work with it exclusively.

Q. I did not ask you that. But I mean in estimating your business?—

A. You mean what it costs us to refine sugar the way we refine? If we use 30 per cent. centrifugal, 55 per cent. fair refining, and 15 per cent. of common sugar, and we work our house to its fullest capacity, it would cost about 50 cents a hundred.

Q. You have paid some attention, I suppose too, noticing the course of the sugar market in the last six months in New York?—A. Yes, sir.

Q. The price of refined sugars has increased during that period?—A. Yes, sir.

Q. So that in the month of February, 1888, it was $7\frac{1}{2}$ to $6\frac{3}{4}$?—A. Yes, sir.

Q. In February, 1877, it was $5\frac{1}{2}$ and $5\frac{3}{4}$?—A. Yes, sir.

Q. Do you know any reason why the price in February, 1888, exceeded the price in February, 1887?—A. You mean of raw sugars?

Q. No; refined sugars.—A. Well, it is largely owing to the regulating of the production. In 1887 there were a great many more refineries at work than in 1888.

Q. So that it was a decrease of the production of the year ending February, 1888, to which, you think, the increase in price was due?—A. Undoubtedly.

Q. At what season of the year, in your experience in the sugar-refining business, has the price of refined sugar ordinarily been the highest?—A. Generally in the summer.

Q. I call your attention to the fact that the price of sugar in February, 1888, was between 1 cent and 2 cents higher per pound than in the months of June, July, and August of 1887. Do you know any reason for that unusual condition of things?—A. I do not quite understand.

Q. I will repeat, then. In the months of January and February, 1888, the price of refined sugar was higher than in the months of May, June, July, and August, 1887, and I ask you whether you know any reason for that difference. You may state what the reason is, if you know it.—A. One reason is that raw sugars are higher than they were last June, July, and August.

Q. Is there any other reason?—A. Another reason was, as I have stated, the curtailment of production.

Q. Now, I call your attention to the fact that fair refining sugar in February, at its highest, sold at 5 cents a pound, and its highest price in the months of May, June, July, and August last year was 4½¢. Bearing that in mind, Mr. Moller, will you state, please, whether the increase in the price of raw sugar between those periods was, as you understand it, greater or less than the increase in the price of refined sugars?—A. The reason why was that the sugar market generally rose, that is, the raw sugar market, especially in England.

Q. I understand that is the reason why the raw sugar rose.—A. Yes, sir.

Q. But the raw sugar rose less than the refined sugar?—A. The reason for that was that they regulated the output. They did not produce any more sugar than the people wanted.

Q. The reason, therefore, why there was a greater rise in the price of the refined sugar per pound than in the price of raw sugar, was due to the fact that the production was curtailed?—A. That is my opinion.

Q. And that curtailment of production was in the operation of the refineries connected with this so-called trust agreement?—A. So I judge.

Q. You signed this deed, I believe?—A. Yes, sir.

Q. The signature "North River Sugar Refining Co., George H. Moller, secretary," was made by you?—A. Yes, sir.

Q. Do you recollect when that was done?—A. I could not recollect the date, but I think it was some time in the fore part of October.

Q. At the time you made that signature had there been a figure agreed upon between you and the other persons signing the paper as as to the amount of certificates you were to receive?—A. Yes, sir.

Q. How much was it?—A. \$700,000, less 15 per cent.

Q. The subject of your executing this deed and entering into this arrangement had been discussed, I take it, before you made this signature?—A. Discussed between whom?

Q. Without saying between whom, there had been discussion about it, to which you were a party?—A. Yes, sir.

Q. With whom had you talked about it outside of the stockholders and officers of your own company?—A. Principally with John E. Searles, jr.

Q. He is a member or officer of which one of the corporations?—A. He was one of the eleven trustees.

Q. Oh, he was one of the eleven trustees?—A. He was secretary and treasurer, I think, of the Havemeyer Sugar Refinery Company.

Q. For how long a time prior to your signing this instrument had there been talk between you and Mr. Searles on this question?—A. For more than a year before.

Q. And had the discussions been renewed from time to time along through the year?—A. Yes, sir.

Q. Had there been talk about the matter in your board of directors?—A. Yes, sir.

Q. And with the stockholders of your company?—A. Yes, sir.

Q. Was this proposition from Mr. Searles, that the stock of your company should be surrendered to these trustees?—A. Yes, sir.

Q. Were they named to you? Did you understand who they were?—A. Not at first. The arrangement was that we were to come into this arrangement and that we were to receive \$700,000 for our stock, but how that was to be done was not stated.

Q. It was not discussed at the beginning?—A. No, sir.

Q. Afterwards, were the names made known to you before the signing of this paper?—A. We were told we had to assign our stock to a certain committee called trustees, composed of Mr. Dos Passos, Mr. Parsons, and Mr. Bartlett. To those people we were to turn over our stock and they were to receive our certificates for it.

Q. Were the names of the persons in that deed made known to you?—

A. Yes; they were in the deed at the time the deed was signed.

Q. This deed was signed, I believe, before the precise locality of this park was agreed upon or settled?—A. Yes, sir.

Q. And after the park was agreed upon your stockholders or company withdrew, or notified these people you would not carry out that arrangement?—A. Yes, sir.

Q. That was in advance of the actual surrender of any of these certificates?—A. Yes, sir.

Q. Now, will you state, Mr. Moller, whether or not the stockholders and officers of your company were satisfied with the amount of \$700,000 in certificates from these trustees as compared with the amounts given to other people.—A. No, sir; they were not.

Q. In your opinion, and in the opinion of your stockholders and board of directors then, you were not receiving as large a proportion of these certificates as you thought you were entitled to rightly with others?—A. No, sir.

Q. And that had something to do, in connection with the location of this park, with your withdrawal from the arrangement?—A. Yes, sir.

Q. As I understand it, the authority to execute this deed was given by your board of trustees to the president and secretary of the company?—A. Yes, sir.

Q. And the president never did execute the paper?—A. No, sir.

Q. Subsequently to your refusal did you receive any communication from any of these other gentlemen upon the subject?—A. Yes, sir.

Q. From whom?—A. Mr. Searles.

Q. Did you also receive a communication from Mr. Parsons?—A. Yes, sir.

Q. Did Mr. Parsons in that communication assert that your company was legally bound to carry out this arrangement?—A. He intimated so much.

Q. Did you write in response to that?—A. I sent my lawyer to him.

Q. The conclusion which you reached, as I gather, was that you would rather take your chances of what you would get out of the city on account of the condemnation of your property for a public park than to take \$700,000 in these certificates?—A. Our stockholders were not satisfied with the arrangement. They thought our property was not valued as highly in proportion as other properties which were taken in. They felt aggrieved about it, but under the circumstances they considered that our chances as a corporation, if we wished to continue in the sugar business, would be better in going in even at that valuation than to stay out alone; but afterwards, when the park matter was discussed, our people said, "We have not been treated as we ought to have been treated, and we will take our chances and see what we can get out of the city."

Q. So the conclusion you reached was that if you were going on with the sugar business you had better take \$700,000 than compete with this combination?—A. Yes, sir.

Q. But if you were going out of the business, you would rather take

the chances with the city than accept this award?—A. Yes, sir; that is the conclusion we came to.

Q. Now, Mr. Moller, in these years in which you have been engaged in the sugar-refining business, I suppose you have seen some periods of prosperity and some of adversity?—A. Yes, sir.

Q. Generally, taking the thirty years together, has the business been a profitable one?—A. Yes. I might say it has.

Q. Averaging it all through?—A. Yes, sir.

Q. During the year 1882—or 1883, was it not—the Havemeyers & Elder refinery burned down?—A. Yes, sir.

Q. During that year was, or was not, the business profitable?—A. It was profitable then.

Q. Their refinery was rebuilt, I believe?—A. Yes, sir.

Q. And went into active operation at what time?—A. About eighteen months afterwards, I think.

Q. Some time in January, 1885?—A. I think it was in 1884.

Q. Was the capacity of that refinery increased by that rebuilding?—A. It was.

Q. From the time that that refinery went into active operation up to the time you sold out, what was the condition of the sugar trade?—A. Poorer and poorer, every year.

Q. Did the output of that refinery, added to the other production of the country, diminish the profitableness of the business?—A. Yes, sir.

Q. You were examined in New York, were you not?—A. Yes, sir.

Q. One other question, Mr. Moller, before we pass to that subject. Did you talk with anybody, except with Mr. Searles, upon the subject of going into this trust?—A. I had a conversation with Mr. Matthiessen.

Q. Of Matthiessen & Weichers?—A. Yes, sir.

Q. After you received this letter from Mr. Parsons, and sent your lawyer to see him, I understand your claim was that, as this instrument had not been signed by your president, your corporation was not bound?—A. I think my lawyer stated that to him. I do not know how they fixed it.

Q. You made that claim, any way, through your lawyer?—A. Yes, sir.

Q. And after it was made, did Mr. Searles call upon you?—A. Yes, sir.

Q. And as the result of interviews with Mr. Searles thereafter, was the stock of your company transferred to Mr. Searles?—A. Yes, sir.

Q. At what price?—A. \$325,000.

Q. And did that carry all the stock?—A. It carried all the stock.

Q. The whole capital stock?—A. Yes, sir.

Q. That is the only sale of the stock of your company you know of since 1882?—A. Yes, sir.

Q. And Mr. Searles paid you in cash?—A. Yes, sir; I would remind you, Mr. Chairman, that a number of people think that when we sold out our stock at \$325,000 we sold out everything; we did not. We only sold the plant and machinery; but the personal property of the company we retained.

Q. What kind of personal property?—A. Sugar in the sugar-houses, and all debts collectible, and everything else of that kind the company retained. It did not give up its books, showing money outstanding, to Searles. We only sold to Mr. Searles the plant and the machinery, and the ground; but all the material in the sugar-houses, bone-black sirups, sugars, and everything of that kind, was retained.

Q. But the stock of the sugar-refining company went to Mr. Searles?—
A. Yes, sir.

Q. Was an exception made in the sale as between you and Mr. Searles of any part of the property of the North River Sugar Refining Company?—A. Yes. When we first wanted to go into the trust we had made out a schedule of all the property, and in that schedule were these six lots, and we were under obligation in going into this arrangement to buy those six lots and give the trust or combination, or whatever you want to call it, a deed for it. In making this arrangement with Mr. Searles we sold the sugar-refining business for \$350,000, and we allowed him \$25,000 for those six small lots, and in that way we obviated the necessity of deeding the property, and in that way the net proceeds of the sale were \$325,000.

Q. That leaves it much as before. You transferred your property just as it was, subject to the lien on those lots, for \$325,000?—A. Yes, sir.

Q. And did you understand, in doing that, that Mr. Searles was making this purchase in the interest of those people who had gone into this trust?—A. I can not say that; I suppose so, but I do know for certain that Mr. Searles gave us the money.

Q. I understand; you do not know it as a fact, but that is your understanding?—A. That was my impression.

Q. Now, Mr. Moller, you testified in New York as to the amounts received by some of these other gentlemen who went into the organization?—A. Yes, sir.

Q. Without asking you to amplify that testimony, I call your attention to what it was in New York. You stated in New York that the Havemeyers & Elder Company were taken in at between sixteen and seventeen millions. Is that correct?—A. I testified as to that.

Q. It is a correct statement, is it not?—A. Yes; according to my best knowledge and belief.

Q. You testified that the Decastro and Donner Company was taken in at a little over three millions?—A. That is correct.

Q. And the Matthiessen and Weichers Company at \$6,500,000?—A. Yes, sir.

Q. The Oxnard refinery at \$7,500,000?—A. Yes, sir.

Q. And the Moller and Sierch Company at \$1,150,000?—A. Yes, sir.

Q. And the Dick and Meyer Company at three millions?—A. Yes, sir.

Q. The Standard Refinery of Boston at \$2,700,000?—A. Yes, sir.

Q. The Bay State Refinery at \$900,000?—A. Well, I do not know that I exactly stated that. There are two in Boston, the Continental and the Bay State, and one of them, I think the Bay State, was taken in at \$900,000.

Q. Either the Bay State or the Continental?—A. Yes, sir; I think the Bay State was taken in at \$900,000, and the Continental at \$1,900,000.

Q. The subsequent signers of this agreement—one in Portland, one in Saint Louis, and two in New Orleans—you did not know about?—A. No; they were not in when I signed it.

Q. Do you recollect when it was that you notified the other gentlemen connected with this agreement that you would not enter into it?

A. It must have been some time in the fore part of November.

Q. And about how long a time elapsed between your giving them that indication and the closing of the transaction with Mr. Searles?—A. I should say about three weeks.

Q. I take it, of course, that Mr. Searles, in his talk with you, before you signed this paper, laid before you some arguments to show that

you would be benefited by entering into this combination?—A. Well, I do not know exactly that he did, but he probably could have done better by us if he had wanted to.

Q. When he first talked with you about going into this arrangement he must have given you some reason why such an arrangement would be of benefit to you?—A. I think it was hardly necessary for him to give me any reason. I could see through the affair just as well as he could, and see that if all the refineries came together and worked together it must be a benefit.

Q. How?—A. They would not make any more sugar than the public wanted.

Q. That is, the object of each refinery running to its fullest capacity, and making all the sugar it could, would be removed?—A. Yes, sir.

Q. And the advantage was that that sort of competition would become unnecessary?—A. Yes, sir.

Q. The effect of that, as you understood it, as a sugar refiner, would be that the price of refined sugar would advance?—A. Yes, sir.

Q. And if there would be as large a difference between the prices of raw and refined sugars as heretofore it would give you a fair profit?—A. Yes, sir.

Q. Mr. Searles took your stock at what time?—A. About the fore part of November.

Q. And about how soon after he took your stock was it that your refinery closed down?—A. Well, we were not running full at this time, and I stipulated with him that we should retain the refinery until the first of January, so that we could work out our stock on hand and get rid of our raw sugars and clean up everything; and we agreed that that should be done by the first of January, and it was. We then gave up the refinery.

Q. And the refinery then stopped, and the raw sugars that were left were sold?—A. Yes, sir.

Q. About what was the output of your refinery?—A. About 800 or 1,000 barrels a day.

Q. How many men did you employ?—A. In the neighborhood of two hundred men.

Q. How many men are employed in the sugar-refining business in and about the city of New York; I mean employes who labor?—A. Well, I will count them up. I calculated the number of men employed in the whole industry in the United States this side of the Rocky Mountains, and I think it was about ten thousand; that is, people who actually work in the sugar refineries, what they call sugar-bakers, etc. I did not calculate the coopers and people who live out of the business, and, of course, there are many men who have families consisting of four or five persons, and I have not calculated them either.

Q. Only those who labor?—A. Yes; they will not exceed ten thousand.

Q. In addition to that each sugar refinery buys barrels?—A. Yes, sir.

Q. That gives employment to more people?—A. Yes, sir.

Q. Are those barrels made by particular persons?—A. There are persons who make a business of it.

Q. But they are not made by the refineries?—A. I think Havemeyers & Elder have a large interest in one of these barrel factories.

Q. But they are not made in the refinery and as part of the refinery business?—A. No, sir.

Q. If they have a separate concern that makes barrels, that is another matter?—A. Yes, sir.

Q. After this combination was complete, was there any buyer of raw sugar left in the sugar market outside of the persons signing this agreement?—A. No, except Harrison & Frazier and E. C. Knight & Co., of Philadelphia, and the Revere Company, of Boston.

Q. What is the capacity of the Revere Company?—A. I never have been in it, but from my best knowledge and belief I should say that they make 1,000 barrels a day.

Q. That would be the utmost?—A. Yes, sir.

Q. What was the capacity of Harrison & Frazier's refinery?—A. Harrison & Frazier's is, I think, a pretty large house. I have been told that they refine as much sugar as any of them.

Q. About what?—A. Six or seven thousand barrels a day.

Q. What is the capacity of Knight & Co.?—A. It does not amount to much more than 800 barrels a day, to my knowledge.

Q. Some raw sugars go to the port of Philadelphia and to the port of Boston?—A. Yes, sir.

Q. What proportion of raw sugars have those gentlemen in the past, so far as you know, bought in the port of New York?—A. Harrison & Frazier bought a good deal. They are, on and off, all the time in the New York market. Knight & Co., I guess, buy very little, and the Boston people only buy periodically. They import most of their sugars themselves, but sometimes they buy in the New York market, but very little.

Q. So that the only considerable buyer in the New York market, outside of this trust, is Harrison & Frazier?—A. Yes, sir.

By Mr. SMITH:

Q. You testified that the reason of the price of sugar having advanced 1 cent a pound was that the people did not want more. Is that so?—A. No, I did not say so.

Q. The reason the trust did not put more sugar on the market was that the people did not want more?—A. I did not say so.

Q. So I understood. What did you say on the subject?—A. I said that the trust would not produce more sugars than the people needed.

Q. Who should be the judge of that?—A. I should say the refineries would be the judge of that.

Q. If sugars were lower in price than at present, would the people use more?—A. It generally has that tendency.

Q. With the improved machinery now in use in sugar refining is there as much manual labor employed as there was ten years ago on each grade of sugar?—A. Ten years ago they had about the same appliances as they have to-day. If you should go back forty years it would be different.

Q. Well, say fifteen years; that is about half your time in sugar refining.—A. No, I have been at it since 1856. Well, fifteen years might make a difference, but not a very material one.

Q. There was testimony given here that with improved machinery as they have it now in use, manual labor was dispensed with.—A. I did not think improved machinery had so much to do with labor.

Q. Before this centrifugal machine came into use how much time was used to do the same thing which it does now?—A. What now can be done in forty-eight hours took then twenty-one days.

Q. Did you have to employ more labor at that time, before you had that machine?—A. Yes, sir.

Q. About what per cent.?—A. Well, I am not able to state that.

Q. How much labor employed is skilled mechanical labor?—A. Very little.

Q. What are the average wages of skilled laborers and unskilled laborers in sugar refineries?—A. We paid our workmen by the month. I think the lowest was \$36, and from that up to \$40, \$50, \$80, \$100, and \$150 a month.

Q. Those \$150 a month men were generally chemists, were they not?—A. No, sir.

Q. Were they skilled mechanics?—A. They were what we called sugar-boilers or superintendents of works mainly.

Q. So you can not state what percentage of skilled labor is employed—skilled mechanical labor?—A. I do not understand what you mean by skilled labor. For instance, a sugar-boiler might call himself a skilled laborer. I suppose you mean carpenters, machinists, and such men.

Q. I mean a mechanic who has taken an apprenticeship of a number of years to become skilled.—A. We had a very few of such men. We might have one carpenter, one machinist, one engineer—

Q. That is not in the sugar-refining business?—A. They help to make sugar. If the engineer does not run the machine the sugar will not be made.

Q. How long will it take you to drill an ordinary laborer in your works to perform a certain amount of labor, or attend to a certain piece of machinery?—A. That is hard to tell. Some people are apt, and learn quick, and others will not learn in a life-time.

Q. Thirty-six dollars per month was the lowest wages you paid?—A. As far as I know, that was the lowest paid.

Q. Do you admit that with all these improved appliances for refining sugar that less labor is employed than formerly?—A. You mean than when it took twenty-one days to make sugar?

Mr. SMITH. Yes.—A. Undoubtedly.

By Mr. McKINNEY:

Q. Mr. Moller, you were to have \$700,000 from the trust, minus 15 per cent., for your plant?—A. Yes, sir.

Q. You did not go into the trust, and yet sold your plant for \$325,000?—A. Yes, sir.

Q. Was the property for which you received \$325,000 the same property for which you were to receive \$700,000 in certificates, minus 15 per cent. for the trust?—A. As I stated before, in our schedules there were six lots which were to go in, and those six lots added to what we got, \$325,000, made up the property for which we were to receive \$700,000 in certificates, less 15 per cent.

Q. The two transactions then were not identical? They did not involve the same property?

The CHAIRMAN. I think I can explain it to you. Under the original arrangement by which they were to receive \$700,000, as this witness testifies, these lease-hold properties they were to acquire the fee of. Now, instead of acquiring the fee they turned over the lease-hold interest and allowed \$25,000 as the difference between the value of the lease-hold and the fee. That is the substance of it.

The WITNESS. Yes, sir; that is it.

By Mr. McKINNEY:

Q. Do I understand by your testimony that this trust really limits the competition in the purchase of raw sugar?—A. Do you mean if that is my opinion?

Mr. McKINNEY. Yes, sir.—A. Yes; that is my opinion,

Q. You mean by that that raw sugars would probably bring a less price in the market under this arrangement than before?—A. I won't say that, but I say it lessens competition. If you and I and some others were partners, one of us would not bid more than the others.

Q. Do you think the tendency of this trust is to keep up the price of refined sugars?—A. Yes, sir.

Q. And also on the other hand to keep down the price of raw material?—A. I won't say that.

Q. The principal object of this trust was to control the market?—A. Well, the way I look at that is they were going to better their situation. It was a poor business, and they wanted to make it so that at least they should have a profit.

By Mr. HOPKINS :

Q. Mr. Moller, do you know of any of these certificates having been offered at any banks in the cities of Boston, New York, and Philadelphia as hypothecations for loans?—A. Not that I know of.

By Mr. BUCHANAN :

Q. Have you at any time learned from any of the parties to that deed of any effort being made by them, or by any one in their interest, to secure as members of their combination refineries in countries other than this?

The WITNESS. Do what?

Mr. BUCHANAN. I say, do you know of any effort being made by the members of the trust to secure as members of their combination refineries in other countries?—A. I do not know of my own knowledge, but Mr. Searles went to San Francisco, Cal., and I suppose he went for the purpose of seeing if the refineries there would come in.

Q. I said countries other than this; I mean European countries.—A. No, sir.

Q. You have heard nothing of that kind?—A. No, sir; you need not be afraid, it won't go there.

Q. Please explain why we need not fear that contingency.—A. It would be uncontrollable.

Q. Please explain how and why it would be uncontrollable.—A. Well, if you take in all the sugar refineries in Germany and England and Scotland and France, that would be an unmanageable body, in my opinion. It would be impossible.

Q. Why would it be unmanageable?—A. Well, the interests would be so different.

Q. And those are the reasons why you think this trust will be limited in its operations to the United States?—A. Undoubtedly.

Q. You were examined, were you not, by the committee of the senate of the State of New York some little time since?—A. Yes, sir.

Q. Did you, in the course of that examination, state that after Mr. Searles made a proposition to you, you told Mr. Searles that you had lost confidence in the proposed combination?—A. Yes, sir.

Q. Please state what was the reason in your mind for losing confidence in that proposed combination.—A. Because I thought that they had not put our property in at the right valuation.

Q. In other words, you felt they were trying to play a sharp game upon you?—A. Yes, sir.

Q. You gave in the early part of your examination here the cost of refining a pound of sugar. Let me ask you whether the cost remains the same at all seasons of the year and under all conditions, or whether

it varies?—A. It varies immaterially; it is about the same, unless there might be a rise in coal, and that would not alter it very materially.

Q. Do wages remain the same from year to year?—A. Yes, sir; pretty nearly.

Q. What would be the extreme extent of the variation on account of variation in the price of your fuel?—A. You mean in reference to the cost of refining?

Q. Yes.—A. I can not tell that. I would have to figure it out first. But it would be very small.

Q. You gave the price at which you employed your labor at from \$36 to \$100 and \$150 a month. Please state what proportion of your workmen are paid \$36 a month.—A. The best part of them. I can not give the exact number.

Q. The larger number?—A. Yes, sir.

Q. What do these men do—what actual duties do they perform?—A. Any ordinary duty a man can do without being skilled. They have to steam out the hogsheds, roll barrels, and fill barrels, and put them in the carts, and do what a laboring man probably would do in a store-house.

By the CHAIRMAN:

Q. Mr. Moller, what became of the employés in your refinery when it was shut up?—A. Some of them went over to Brooklyn and got work for a few days, and when those refineries stopped they got out of employment; most of them are out of work.

Q. So far as you know, they are out of work?—A. Yes, sir.

Q. And not under pay for anybody?—A. No, sir.

By Mr. McKINNEY:

Q. Would they, in your opinion, have been in the employ of a sugar refinery had it not been for this organization?—A. We would probably never have stopped our refinery, and, if we had, we would probably have kept most of them under pay.

Q. So that on account of the organization of this trust those men were thrown out of employment?—A. Yes, sir; practically so.

By the CHAIRMAN:

Q. I believe the custom of your refinery requires that when you close down temporarily you keep the better men on your pay-roll?—A. Yes, sir.

By Mr. BRECKINRIDGE:

Q. You say that this proposed consolidation that was offered to you was discussed from time to time?—A. Yes, sir.

Q. What was the mode of operating the consolidated refineries that was held out to you?—A. To go into the consolidation, you mean?

Q. I mean how did they propose to operate the consolidated business?—A. I do not think that matter was discussed at all.

Q. Was it not attempted to show you how the new plan would work?—A. No, sir.

Q. Nobody attempted to prove to you that it was a practical mode of doing business?—A. Well, so far, of course, that if the refineries all came under one arrangement they would naturally stop overproduction and produce only so much sugar as the community wanted, and by that means keep up prices so that they could make a profit.

Q. That was the conclusion to be reached?—A. That was the object.

Q. I am not asking as to the conclusion, but as to the manner in which they were going to reach that conclusion. You would naturally ask,

how is this thing going to work? It seemed to be a very good thing, but as a practical man of business, I suppose you would ask yourself and those who presented the proposition to you, how are you going to make the thing work?—A. I did not discuss that matter with any of them. As far as we were concerned we were all practical men, all sugar refiners, and each one thought he knew as much as his neighbor; and as far as we were concerned, we did not consider any discussion necessary. We all knew that the only way to make sugar-refining pay was to stop overproduction.

Q. A discussion as to the modes of refining sugar would not naturally arise in talking of the subject I am asking you about?—A. Well, that has never been discussed, so far as I know—not with me.

Q. You did not discuss how you would regulate production—how the order was to be made effective?—A. I do not know that that was much discussed. It was self-evident, and every refiner knew that all the refiners would be benefited by it; but how they would be benefited, I do not think was discussed with anybody.

Q. Of course you know that under the new arrangement, the new consolidation of stock would have to have some executive organization. There would have to be some way of keeping the run of the funds turned in?—A. Yes, sir.

Q. There would have to be some way of enforcing discipline with the refineries?—A. Yes, sir.

Q. And those are what I would call the practical details of the proposed scheme. I understand you to say that you had no discussion about that matter.—A. No, sir; we never discussed that matter.

Q. Was it understood or agreed that that would be all settled by the trustees?—A. Well, you might say so. There was no agreement and no consultation on the subject with the people who had this matter in hand. We were confident that whatever they agreed upon would be acceptable to us.

Q. Very well. That was all taken for granted and assumed, was it?—A. Yes, sir.

Q. As far as your negotiations were concerned?—A. Yes; as far as we were concerned.

Q. Mr. Moller, what margin of profit have you generally considered existed between the cost of refining your sugar and the selling price that would induce imports?—A. We would consider that if we had a difference between centrifugal sugar—sugar of 96 test—and granulated sugar, if the difference was 70 cents a hundred we would lose no money.

Q. You are talking now about the cost of refining, are you not?—A. No; I am talking about the difference the refinery ought to have between raw sugar and granulated sugar so as to get whole.

Q. That was not my question.—A. I misunderstood it then.

Q. If your raw sugar of a given grade cost you, say, 3 cents—I take any price so as to get a basis—I understand from what you have stated that if you could then sell your granulated at 3.70 you would be made whole?—A. Yes, sir.

Q. That brings me to the question that I asked a while ago. Your cost price, then, would be, under a fair and liberal construction, 3.70; how much would you have to advance that price above 3.70 to invite imports from London, say?—A. Oh, you could do that considerably. Under the present tariff there is $3\frac{1}{2}$ cents duty on centrifugal sugars.

Q. Have you never figured on what you might call the danger line?—A. No, sir; I have not.

Q. You are not prepared to state how much you could advance the price?—A. I have never calculated that exactly.

Q. Have you ever known English sugars to run in upon our market?—A. Never.

Q. Even at our highest advance, the largest margin that we maintain between raw and refined at any time?—A. I think at one time there was a small quantity of low-grade yellow sugars brought in through Canada. I think it came from Glasgow, but the amount was insignificant and hardly worth counting. And it was so low as to be nearer raw sugar than refined.

Q. Suppose your raw sugar cost you 3 cents—and I take any price as a basis to start upon—and instead of turning out granulated sugar, which I believe is what you call sugar above No. 20—A. Yes, sir.

Q. Instead, then, of turning out granulated sugar, you turn out, say, a good yellow sugar about the grade of 16, how much would you consider necessary to make you whole on that grade?—A. I could not answer that question understandingly, because we have never worked low-grade sugars all alone. I believe no refinery does. It would be a disadvantage to it. The refiner generally commences in the morning with hard grades and so grades down until afternoon, until he reaches the poorest he wants to use. If he were to use low-grade sugars altogether, I think it would not work.

Q. Do cargoes of sugar generally run of uniform grade?—A. Well, cargoes of sugar are often mixed; some have part muscovado and part centrifugal. But centrifugal sugars generally run about the same grade.

Q. Well, these centrifugal and muscovado sugars can all be below No. 13, can they not?—A. Oh, yes.

Q. Suppose they are below No. 13 and are of the same saccharine strength; are they equally valuable to you for refining purposes?—A. Not always; it depends a good deal upon what test is made and how it is made. For instance, you might take molasses and boil it in a vacuum-pan, and you can make out a test of 91 or 92. You might take a muscovado sugar and bring out a test of 88. That sugar, testing 88, would be worth more in the market than a molasses testing 91 or 92.

Q. Why is that?—A. Because, although the polariscope gives you a certain quantity of sugar that will granulate, it will not show you what quality it will be, nor how long it will take you to refine it. With one grade it might take forty-eight hours, while on another you might spend three months.

Q. Please describe the vacuum-pan process of refining sugar.—A. By the vacuum-pan process you boil at a very low temperature, and there are several coils of steam which make the sugar-mass boil. As soon as it boils up and the water evaporates into steam the air converts the steam into water as soon as it arises, and that keeps the mass cool. So the temperature is kept even during the operation, the water taking off the steam and thus keeping the mass cool, and that keeps it from burning, and you get your color better.

Q. You have perfectly uniform heat, then?—A. Yes, sir.

Q. And it is by the slow process of evaporation instead of the fast-boiling process of the open-air kettle?—A. Well, I think you can boil quicker in a kettle.

Q. But this is the more conservative mode?—A. Yes, sir.

Q. If you buy centrifugal sugars, testing say No. 90, how much of the saccharine strength would you expect to lose in the process of refining?—A. Testing 90?

Q. Yes; I am not talking now of the weight of the sugar, but of the saccharine matter that is in it.—A. I am not able to tell you that, because you get, for instance, sirups out of that which would test 40 or 50 per cent. sugar that you can not do anything with. The test is still there, but the sugar which is in the molasses might take you six months to get out.

Q. The sugars which you turn out, Mr. Moller, whether good grades of yellow or granulated, are almost 100 degrees, are they not?—A. Yes, sir.

Q. Quite so?—A. Well, they ought to be 100 degrees. But after they are dried and exposed to the air they will absorb some moisture. It ought to be 100, but it is not always 100, and it runs from 99½ to 99¾ and in that neighborhood.

Q. But the element of weight that is not saccharine matter is generally moisture acquired by absorption?—A. Yes, sir.

Q. Allusion has been made in the course of our examinations to sugars being debased when competition is very great. Will you please state how it is understood in the trade that sugars are debased—sugars which are meant for consumption?—A. Well, some years ago people made a kind of sugar out of glucose. I do not know that any of it was done by refineries; but people made a business of buying yellow sugars and mixing with glucose, and they would then sell it for better prices because the color was advanced. But I never heard that any refinery had done such a thing. But it has been done, I know.

Q. That article has been on the market at certain times?—A. Yes, sir.

Q. You do not know who produced it?—A. There was a concern not far away from us that did that business, but they were not refiners.

Q. What is understood to be the saccharine strength of glucose?—A. That I do not know.

Q. I see on page 8 that fair refining sugar in New York—and these figures from the Commercial Bulletin are, I believe, intended to be the New York quotations—averaged 4.69.

The WITNESS. Would it be all the same to you to quote centrifugals? The New York refineries always base their calculations on the 96 basis of centrifugals.

Q. Well, you understand what this means better than I do. I understand it as a trade expression. The heading [reading it] is "Raw sugar fair refined." You know what that means?—A. Yes, sir.

Q. What does it mean?—A. Fair refining sugars are not made in vacuum-pans, but in the open air, and those sugars test by the polariscope from 88 to 90 at the outside. These sugars and Dutch standard No. 12 are what we call fair refining.

Q. This is considered a standard of raw sugars for refining purposes?—A. By the name everybody knows what they are.

Q. They make granulated sugar out of this, I believe?—A. Yes, sir.

Q. Is it customary to do so?—A. Yes, sir.

Q. I see that the average price of this grade of raw sugar was 4.69 for the month of September, and 4.72 for the month of October. Now, we have had testified to us here that granulated sugars have advanced in that market since the early part of October over a cent. Now, raw sugars have advanced during the succeeding months to 5.16 for November, 5.12 for December, 5.12 for January, and 4.87 for February—the print had it 4.86. I perceive an error of one point. The correct price is 4.87. They extended the average incorrectly. I am reading from the reprint. Now, the highest advance there at any time is 48 points. In

other words, a little less than half a cent a pound. If raw sugars advanced half a cent a pound, how much should granulated sugar have advanced, as influenced by the fact that raw sugar has advanced half a cent a pound?—A. What date?

Q. Any date. It makes no difference about the date. I am just asking as a general proposition—if raw sugars advanced half a cent, how much should the refined sugars advance to keep even?—A. They ought to advance in the same ratio.

Q. No more, no less?—A. It all depends. A man might have been working at a loss. He would be just as well off if raw sugars advanced half a cent and refined half a cent as he was when he started.

Q. And if he were working at a profit and raw sugar advanced half a cent and refined sugar advanced half a cent, he would make the same profit as before?—A. Pretty nearly; but the higher you go the less the profit would be in proportion.

Q. But practically it would be the same?—A. Yes, sir.

Q. Have any of your sugars ever been exported?—A. Yes, sir.

Q. Have you sold them upon orders from abroad? That is, did your customers live abroad, or did you sell to customers in New York?—A. We sold to parties in New York, with rare exceptions.

Q. Therefore you were not the shipper yourselves?—A. No, sir; we never shipped any goods ourselves.

Q. Do you know how the basis for the drawback was determined?—A. No; I have troubled myself very little about it, because we exported very little sugars. We did most of our business in New York.

Q. You do not know whether the Government had any grounds upon which to base the knowledge or the belief that your raw sugar which had entered into this sugar which you exported was domestic raw sugar or imported raw sugar?—A. I have not studied that matter much.

Q. This is a matter that does not call for study, it is a matter of fact. In other words, were you called upon when you exported sugars to say that the raw sugars used in that sugar was imported raw sugar?—A. Oh, yes; we swore to that in the custom-house.

Q. You were universally called upon to swear to that?—A. Yes, sir.

Q. Were you called upon to swear how much imported raw sugar there was in the refined sugar you wished to export?—A. No, sir; we only swore that we had used nothing but raw sugar on which the duty had been paid.

Q. You do not know how the Government determined how much imported sugar you had used or how little?—A. No, sir.

Q. You then swore to the single fact you have related, and left the custom-house officers to figure out the amount?—A. Yes, sir.

Q. Will you explain to the committee how the polariscope is used; just give a practical explanation of this polariscope business?—A. I do not know whether I can explain it very clearly, but I will do the best I can. You have to take a given quantity of raw sugar, for instance, determined by weight, and you have to dilute that with a certain given quantity of water, so that you dissolve the sugar thoroughly, and then it is put in a glass tube, on which there are screws on each end, and the top of it also is glass, and fastened by these screws, so that the liquid will not run out, on both sides. When you have it in this glass tube you can look through it from one end to the other.

Q. It is glass all round, then?—A. Yes; glass all round. Then you put it into the instrument. On one end you have light. You put that instrument so that it comes right parallel with the light and from one end to the other you can look through this mass of solution of sugar.

Then there is a machine which consists of quartz ground to some certain consistency, but how I do not know ; but, at any rate, in turning this machine, it gives you a disk to look through, about as large as an American dollar, and you are enabled to see all sorts of colors of the rainbow by turning the machine, so that you can use any color your eye is most sensitive to. In the middle there is a black line, and you have to turn this machine so that the color on one side of this line is just exactly the same as on the other, so that if blue is shown on one side it shall be just the same as the other. That gives you just the amount of saccharine matter in 100 pounds.

Q. You are describing the test now with reference to ascertaining the amount of saccharine matter ?—A. Yes, sir.

The CHAIRMAN. That is all the polariscope is used for.

Q. Is blue the color most used ?—A. You can use any color your eye is most familiar with, blue, green, or yellow ; and any man using that machine can take any color his eye can see best. One man's eye is more sensitive to blue, another man's to red, another man's to yellow, and whatever color suits him best he can use. That is the nicest point—to turn the machine until the color on both sides is exactly alike.

Q. You have an exact proportion between the amount of water and the sugar in this tube ?—A. Yes, sir.

Q. The deepness of the color, whatever the color may be, the deepness of the shadow cast, determines the test ?—A. The color has nothing to do with the solution whatsoever. The color is only necessary to get the shadows on each side of this line exactly alike.

Q. You understand that it is possible to change the color with very slight cost of sugars above No. 13 to the color of No. 13 and below 13, is it not ? Have you not heard that importers of raw sugar have bought sugars of a higher grade of color in Cuba and elsewhere than No. 13 and by artificial means reduced the color to below No. 13 ?—A. Do you mean in the United States ?

Q. No, I do not. I mean is it done outside of the United States by importers to escape the duty ?—A. Well, that was supposed to be done heretofore.

Q. What was the object in doing that ?—A. That was before the polariscope was introduced and all duties were imposed by color, and therefore it was necessary to bring sugars in under No. 13.

Q. Then there is no object in doing that now ?—A. No, sir ; there is no object in doing that now.

Witness dismissed.

TESTIMONY OF WILLIAM H. MORRIS.

WILLIAM H. MORRIS, having been duly sworn by the chairman, testified as follows:

By the CHAIRMAN :

Q. Give your full name, please.—A. William H. Morris.

Q. Where do you reside ?—A. In Orange, N. J., a suburb of New York, 14 miles distant from the city. I go in and out every day.

Q. Where is your place of business ?—A. New York City.

Q. And what is your business ?—A. I am a broker—a merchandise broker.

Q. Especially in sugars ?—A. Yes, sir.

Q. How long have you been engaged in that business?—A. I have been in that business twenty-five or twenty-six years.

Q. Prior to that time what business were you engaged in?—A. Sugar refining.

Q. Where?—A. In New York.

Q. How long were you in that business?—A. Eleven years.

Q. Eleven years prior to what date?—A. From 1851 to 1862.

Q. And from 1862 to the present time you have been a broker?—A. Yes, sir.

Q. That is, you buy for others?—A. Yes, sir.

Q. Raw sugars and refined?—A. Yes, sir.

Q. And to some extent sell for others?—A. Well, the operation unites both—unites both buyer and seller. But more distinctly I represent the buyer than the seller.

Q. And where, speaking generally, has your clientage come from, Mr. Morris?—A. In the purchase of raw sugars from Boston and Philadelphia, with some few exceptions in New York.

Q. And in the purchase of refined sugars?—A. The whole West, Northwest, and Southern country.

Q. Your purchases of sugar for the West, Northwest, etc., have been made from what refineries?—A. From all the refineries in the United States.

Q. What proportion of them have you made from New York refineries?—A. More from New York than elsewhere.

Q. Do you also buy from Philadelphia?—A. Yes, sir.

Q. And Boston houses?—A. Yes, sir.

Q. You know the refineries included in this trust arrangement?—A. Yes, sir.

Q. Do they include all the refineries now in operation and from which you can purchase sugar in and about the city of New York.—A. Yes, sir.

Q. And all Philadelphia refineries but two?—A. There are no other refineries in Philadelphia that are out; there are only two refineries there.

Q. Was there not another there?—A. Oh, yes, there was another; but it was abandoned about a year ago.

Q. You are familiar with what is known as the Louisiana sugar crop?—A. Yes, sir.

Q. What portion of the country is that marketed in principally?—A. The local trade contiguous to New Orleans, in the first instance, and after that in the West and Southwest.

Q. And during what season of the year does the Louisiana sugar product enter into and become a factor in that business?—A. From the 1st of December to April or May.

Q. What is the effect upon the quantity of sugar called for by that section of the country?—A. The requirements from the Eastern market are much less.

Q. What has been the effect, omitting this winter, upon prices during these months?—A. The fact is, when a so much larger supply was upon the market the price was less.

Q. Was that the general effect, taking a series of years back, and omitting this year, that the price on the product of the refineries of New York has been diminished during these months generally?—A. As a general thing, I should say it was; but I can not decide, without reference, what other influences may have come in.

Q. I am not asking about the influences, I am talking about the effect.—A. I would not like to state that as a fact unless I consulted the record.

Q. Without looking to the reasons for it, I ask you whether it is practicable? The prices of sugar have ordinarily diminished during the months when the Louisiana crop was in the market.—A. That would be the natural effect.

Q. Has that result varied usually in the trade?—A. My impression is that it has, but I am not positive about it. Perhaps I can make an explanation and give you some good reasons why I do not want to be positive about it.

By Mr. WILSON:

Q. Do I understand you to mean, unless there are some counteracting influences that would be the natural effect of it?—A. Yes, sir.

By the CHAIRMAN:

Q. I am asking you if the general rule, as you have observed it during fifteen years, has been that the price of refined sugar has been less during the months when the Louisiana product is being marketed than it was at other seasons of the year?—A. Yes, sir.

Q. You have observed the course of the sugar market in New York since the 1st of last December?—A. I have.

Q. And know something of the range of prices?—A. Yes, sir.

Q. Have the prices since the 1st of December been higher, say from the 1st of December to the 1st of March, than they were in corresponding quarters of previous years for the refined product?—A. I think they have been.

Q. Has the price of raw sugar been less or greater within the corresponding quarters?—A. Greater.

Q. What has been the average increase in the price of raw sugars?—A. Excuse me; taking what period?

Q. Taking the quarter from the 1st of December to the 1st of March in this year, and the quarter from the 1st of December to the 1st of March of last year.—A. I can not answer that question without the record, because I haven't it in my mind.

Q. Has the price of raw sugar advanced as much per pound as the price of refined sugar in the last three months?—A. No, sir.

Q. Has there been any deficiency in the supply of raw sugar in the port of New York?—A. What do you mean by deficiency?

Q. Has it been less than in any corresponding period of last year?—A. Yes, sir; the stocks have been less for the past three or four months.

Q. I am not inquiring about stocks, I am inquiring whether the amount of raw sugar offered for sale in the port of New York was less from the 1st of December to this past 1st of March than it was from the 1st of December, 1886, to the 1st of March, 1887.—A. I can only answer that in this way, sugar was only offered for sale in the New York market in two ways; one, by the actual stock existing there, and the other by goods to be shipped from all parts of the world.

Q. But as to actual stock, and the offerings on the spot, have they been very much smaller during the three months?—A. Yes, sir.

Q. That is the past three months as compared with the corresponding three months of the year before?—A. Yes, sir.

Q. The price as given in the market reports cover the prices of sugar "sold to arrive" as well as prices of sugars "spot cash"?—A. I think the quotations which you have had presented here are simply of exported

goods, because goods which arrive in a very large proportion are cost and freight. That is, the price of the goods delivered at the dock in New York, including the freight. The duty, insurance, and freight on the goods that arrive at New York are all at the cost of the buyer.

Q. And the duty to be paid by the purchaser?—A. Yes, sir.

Q. Would this price include the duties?—A. Those are duty-paid prices.

Q. Have you heard in the trade of sugar coming here and not finding a ready sale during the three months?—A. I have heard it; yes, sir.

Q. Now, do you know of any reason for the greater discrepancy between the price of raw and refined sugar within the past three months at the port of New York, as compared with the price of raw and refined sugar during the past year, than the reduction of production at the refineries?—A. I do.

Q. I am asking why the difference between raw sugar and refined sugar should be any greater now than it was before?—A. The primary reason is that the production has not been in any excess of the demand.

Q. The production has not been as large as heretofore?—A. No; I can not answer that way, because I think the meltings, which are shown on the table I saw just before I left New York, and which gives the meltings in the three ports of Boston, New York, and Philadelphia, are equal to those of last year.

Q. You know that some of these refineries are not producing at all?—A. I do; but I do not know that others are making up the deficiency. The tabulated report of the meltings of what passes into consumption are taken from the custom-house reports, and it is presumed that whenever a duty is paid on a cargo of sugar it is going to a refinery to be melted. They do not pay a duty before they want to use it. These tables of the melting of sugar show that the meltings have been just about or a trifle in excess of last year. There is very little difference which is noticeable, that is, a few thousand pounds.

Q. Then, is it your idea that the demand is larger this year than it was a year ago?—A. Yes, sir.

Q. Even at this higher price?—A. Yes, sir.

Q. Have you bought refined sugars for your customers in the West and Southwest during the last three months?—A. Yes, sir.

Q. From what house did you obtain them?—A. I bought them from the New York refineries; from Harrison & Frazier; E. C. Knight & Co.

Q. Have you bought more generally from one than the other?—A. More in New York than in Philadelphia.

Q. Is there a difference, or has there been a difference, in the price paid by you between the New York sugars and the Philadelphia sugars?—A. At the same time?

Q. Yes; at or about the same time?—A. No; because I bought in Philadelphia, for the reason that I could buy cheaper.

Q. You bought in Philadelphia because you could buy cheaper?—A. Yes, sir; and having better freight facilities.

Q. Better freight facilities for the shipment to the point where you wanted to make your shipments?—A. Yes, sir; Philadelphia has a differential freight.

Q. Notwithstanding this differential freight, you bought the sugar cheaper in Philadelphia?—A. Yes, sir; during this interval.

Q. How much cheaper?—A. One-sixteenth of a cent a pound.

Q. Those purchases were made of houses not in this combination, were they not?—A. Yes, sir.

Q. Why did you buy of the New York houses, then?—A. Because some of the trade would have New York sugars at any cost.

Q. Was there any other reason?—A. None; only that I buy what my people want.

Q. You buy New York sugars in obedience to orders to buy from New York sugar refineries?—A. Having known these people for twenty-five years I know what they want, and I get it where I can. If I can not get it in New York I try Boston, or Philadelphia, or try anywhere. I know the wants of the people, and am very much in the position of a resident buyer for those houses. Many of them I buy for without orders. They check me if I am buying too fast, and hurry me up if I am not buying fast enough.

Q. Do I understand you to say that in your opinion the excess of the difference in the prices of raw and refined sugars at that time from the prices of raw and refined sugar in 1886 or 1887 is not in any way due to the reduction of the production?—A. No; I think my answer was that I thought it was due to diminished production.

Q. Then, in your opinion, there has been a diminished production?—A. I beg your pardon—I must correct myself; the general impression in my mind was that there had been a reduced production; but when I thought of those tables that opinion was changed.

Q. When did you think of those tables?—A. When you asked me the question.

Q. To-day?—A. Yes, sir; about the supply of sugar in the New York market and the quantity used. The table of Willett & Hamlin is considered a very good authority. It is a circular, published once a week, and shows the distribution from three ports.

Q. In that table of Willett & Hamlin does the expression "distribution" mean the meltings or the amount sold?—A. It stands for meltings; that is, it is supposed to. You have seen one table here, in which they speak of it as meltings.

Q. There is a table upon the back of it; one labeled "Receipts," and the other "Distribution"?—A. That essentially represents the meltings.

Q. Does the receipt mean the amount brought into port?—A. Yes, sir; entered at the custom-house.

Q. And does distribution mean the amount taken out of bond?—A. Yes, sir; duty paid.

Q. Distribution does not mean the sales to the country by the refineries?—A. No, sir; there are no sales of raw sugar; I say none, but there may be possibly 2 per cent. of raw sugar that is used by manufacturers. Tobacco men use unrefined sugar; at least some of them do; but my opinion is that it does not amount to 2 per cent. of the whole importation. Now and then a manufacturer will try an experiment in making medicine, or ginger ale, or something of that kind.

Q. Then you think there has been more melted during the past winter than there was during the previous winter?—A. I think there has been as much; I won't say more.

Q. Not any more?—A. I think not.

Q. Then, if the amount of raw sugar melted and the corresponding amount of refined sugar made is the same during this winter as it was last (which is your impression), will you tell me why, from your knowledge of the sugar market, it is that the price of raw sugars is proportionately so much less than the price of the refined product?—A. Because I think that the demand and supply or offerings of sugar—to use that term—has been more in sympathy with each other than heretofore.

Q. The Louisiana product has been marketed right through this winter?—A. Yes, sir.

Q. In your own business have you found that the amount of orders and the requirements of the country into which that sugar goes diminishes through the winter as compared with demands in the summer?—A. Yes, sir; we always feel that effect.

Q. And you think that that peculiar condition of the trade, or novel condition of the trade, resulting from this agreement, is not all chargeable with the differences, which I have indicated to you, existing between the prices of sugar at that time?—A. Not altogether chargeable to it.

Q. Is it at all chargeable to it in your opinion?—A. I have answered that it has followed a method pursued by the refiners of accommodating the supply, or offerings of sugar, I should say. We have no definite means of ascertaining what the supply is, except we judge it by the offerings. Our refiners may carry stock and may reserve large quantities of goods and not offer them freely. If the market went up a little the goods would come out.

Q. The offerings of sugar have been from these people, and the price has been what they put upon it?—A. Yes, sir.

Q. And do you know any reason which would enable them to fix and hold the price, with this discrepancy between the price advanced in raw sugar and that advanced in refined sugar, except this agreement?—A. No, I do not.

By Mr. WILSON:

Q. I would like to have you tell us a little more about the practice in New York of trading in raw and refined sugar. Is it done through the brokers mainly?—A. Yes, sir; almost entirely. The large city dealers, for example Mr. Thurber, Mr. Nicholls, Mr. Leggett, and other large local buyers, have their own men on the street every day. They go into a broker's office and consult with him, but they do their purchasing direct.

Q. They do their purchasing direct from the refiners?—A. Yes, sir; but the great bulk of business outside of New York is done through brokers.

Q. From whom do the refiners buy their raw sugars?—A. From brokers in New York who represent spot stock, and from the agents or partners of Cuba houses who are on the market with their cables every day, having what are termed offers to sell certain tons of sugar at a certain price, cost and freight. Having secured his charter-party in the place from which it is to be shipped, he cables to Europe to sell so many tons of beet-root sugar, cost and freight, to be delivered in New York, including freight charges. But from the Philippine Islands and all parts of the world these people are represented generally by an agent rather than by a broker.

Q. Then I understand the case to be something like this: That when the exporter from Cuba, or abroad, starts his cargo from his country, he cables his resident agent here to go upon the market and to offer it upon arrival, freight paid.—A. He does it in case of near-by places, frequently before the market is lower. The factor in Havana or Matanzas, or the shipping ports in Cuba, finds he can buy so many bags or hogsheads of sugar at a certain price. He then goes to a ship-broker and ascertains at what rate he can obtain freight to New York, or it maybe to London, or some other point in the United Kingdom. He makes his calculations and sends his cable to the two places—for instance, to New York or to London.

Q. That is to find out which will be the best market?—A. Which will be the best market, what is known as a firm offer; that is, “you are at liberty to sell at such a price, cost and freight.” He may give one-half a day’s notice ahead of the other; he may send to London and get a reply from there in time to send it to New York, and then to determine which is the better market to sell in. Or he may accept them both, knowing that he can obtain the goods and fill the orders.

Q. Now, these men go on the market, as I understand it?—A. Yes, sir; they go around among the refiners.

Q. Do the brokers sell raw sugar to any large extent in New York?—A. Yes, sir.

Q. Do you sell raw sugar?—A. Yes, sir; spot stock.

Q. What is “spot stock”?—A. Sugar that has already arrived there at the warehouse or at the dock ready for landing.

Q. That is, sugar on the spot?—A. Yes, sir; those sugars as a general thing are sold duty paid; that is, when the owner or agent has the entire management of it.

Q. Take this case: A large merchant from an inland city visits New York to buy his sugar. He may have a large retail trade, and may have some wholesale trade in the particular locality in which he conducts his business. Does he go to the broker to buy or does he go to the refiner?—A. He may go to the refiner and he may go to the broker, or both of them. But as a general thing he will go to the broker, because if he goes to a broker he will know in a few minutes the condition of the market at Boston, New York, and at Philadelphia. He can find out their prices, the qualities and grades of goods that they are offering, and which they have in stock and are very anxious to sell. It saves him a great deal of time; besides that, he wants the broker’s advice if he has confidence in him.

Q. Has it been the custom of the exporter, knowing that during four or five months of the year we have a local source from which to draw a considerable part of our sugar supply, during that time to turn his attention to other markets for the sale of his raw sugars than to ours?—A. No, sir.

Q. I understand the line of testimony to be that during the four or five months when the Louisiana sugar was brought into our market that there was a decline in the price of raw sugars?—A. Yes, sir; as a general thing.

Q. That decline affects the general sugar markets of the world as well as our own?—A. I can not say it is always so. But I will tell you another effect that comes in about the time the Louisiana crop comes in. The Cuba crop, which is practically the largest available crop in the world for use, comes in within thirty days of the Louisiana crop. So that in many instances the effect of the approaching Cuba crop has had a depressing influence upon the New York market, equally as much as the Louisiana market, because the Louisiana crop is so small compared with the consumption of the world that it is local. But the effect of the Cuba crop is universal.

Q. Which of those crops is first thrown upon the market, the Cuba crop or the Louisiana crop?—A. The Louisiana.

Q. Will you give me your opinion as to what is the reason of the stiffening of the price in raw sugar within the last four or five months?—A. I will give it to you in a few words. For eight or ten years the effect of the bounties paid by the French, the German, and the Russian Governments upon all beet sugars that were exported had a demoralizing or debasing effect upon the prices of sugar in all other sugar-producing

countries. Large stocks of sugar that were bought at high prices were carried by bankers. The accumulations increased until the losses were frightful. The bankers could not recoup themselves at all. There was no way of getting out, and they had to carry these high prices. I think the greatest period of depression was until the end of 1885; so much so that it became a serious matter to many growers of sugar whether it was worth while to retain their plantations, or, even then, before the crop production had begun, to make it into sugar, or turn cattle into it and feed it to them and raise cattle. The bankers, to get out of it, used a great deal of skill. They carried the thing along and gradually worked the stock down, and the effect was that after that depressed period there was a gradual rally, beginning almost imperceptibly in 1886, and running along down to July, 1887. Still we had very low prices. The price of beet sugar in July was quoted at 10s. 3d. in London, and it is at this time 16s. Java sugar rose from 12s. 10½d. to 16s. 4½d., and about November a large speculation began in beet sugars, which caused a very rapid advance in those markets, and a corresponding advance in the Island of Cuba just preparatory to their marketing their crop. So that the main cause of the advance in raw sugars which has occurred in the last four or five months, you may say, is owing to a large speculation in beets in Europe. They got up the prices so high that raw sugars were taken in that way.

Q. Let me see if I understand that last remark. Do I understand it is speculation in the beet sugar in Europe that has carried up the price of raw sugars?—A. It has carried up the price of raw sugars.

Q. Then it is simply a temporary rising, not a permanent one?—A. I think it is simply a reaction from an over-speculation. The speculation terminated in January. I take beets merely as a standard, because all the others were in sympathy with them. In January it was 16s. and a half-penny, and it has declined to 14s. 3d. I saw the table in New York on Thursday.

Q. In your judgment will that decline continue?—A. No; as I stated I think it is a natural reaction from an over-speculation.

Q. Then that general rise in the price of the raw material the world over would have caused a corresponding rise in our refined sugar in this country in the last four or five months?—A. Yes, sir.

Q. I understand from the testimony given here by other witnesses that the rise in the refined sugar has been a little more, or somewhat more than can be explained by the rise in the lower sugar?—A. It has.

Q. And I further understand from your recent testimony that under your observation there has been more sympathy, as you express it, I believe, between supply and demand in the sugar market in the past four or five months, than in previous seasons?—A. I think you go back too far. I think since this trust or arrangement was formed—say December, or January, or February; three months.

Q. There has been more sympathy between the supply and the demand?—A. Yes, sir.

Q. And while the actual meltings have been as large as heretofore, they have been more gauged to the actual demand of the market than heretofore?—A. Yes, sir.

Q. In other words, I suppose there is a gradual increase in the demand for sugar because of increased population and increased consumption in the country?—A. Yes, sir; there is a gradual ratio of increased consumption in this country.

Q. And while the actual meltings might be as great as in previous years, they might not be as great in proportion to the demand as in previous years?—A. Yes, sir.

Q. And the inference would be that there has been some intelligent control of the supply of the market the present season which has been lacking heretofore?—A. Yes, sir. Perhaps I might explain to you, if you would like to have it explained, what I mean by the sympathy between the supply and demand.

Q. You expressed it in two or three different ways. I thought it was a proper mode of expression, and I used that instead of any other one. A. Yes, sir.

By Mr. BRECKINRIDGE:

Q. You keep well informed as to the quotations of sugar throughout the world, do you not?—A. Yes, sir.

Q. You are in the habit of watching the prices of English refined sugars upon the English markets?—A. Yes, sir; I see the cables every day.

Q. It was testified in the course of our recent examinations that the export trade in refined sugars has ceased?—A. Yes, sir.

Q. But I find upon referring to the official records that they have rather grown than ceased?—A. What period do you refer to?

Q. The export trade during the last fiscal year ending June 30, 1887, was uncommonly large?—A. Yes, sir.

Q. Are you frequently or ever called upon to buy refined sugars for parties who desire to export them?—A. Yes, sir.

Q. Do you remember when you made your last considerable purchase of that kind?—A. I think I have not bought any considerable amount for export for more than a year. The export trade which I have bought for has been to South America, about the Isthmus of Panama and the West India Islands. But that is a small trade; that is going on constantly.

Q. Has that been the export trade that usually in the course of your business experience you have bought for?—A. No, sir; formerly I bought for England. I bought a long time for the Hudson Bay Company; but they have not bought since the Canadian tariff was modified.

Q. When was that?—A. I think it was five or six or seven years ago. I don't remember exactly; some years ago.

Q. You have not bought considerably, then, for the English market for several years?—A. No, sir.

Q. So you have had no part in the export trade that has obtained during the last fiscal year, no considerable part in the English export trade?—A. No, sir. I have indirectly taken a part in advising friends of mine who are exporters who came to me for information; but having no business transactions as a fiscal agent.

Q. Have you ever calculated how much an English shipper would lose if he sent granulated sugar from London to New York?—A. No, sir; I have not.

Q. Do you know the usual margin that obtains upon the prices of granulated sugar in London and in New York?—A. By following the quotations I have seen that it could not be shipped and get your money back.

Q. There is, you know, in certain commodities—for instance, in cotton from New Orleans to Liverpool—generally a margin, which margin represents freights and charges, and that margin is very stable. It varies only upon the basis of temporary and small fluctuations?—A. Yes, sir.

Q. There is great stability in the margin, for instance, upon cottons of given grades, at Liverpool and New Orleans?—A. Yes; sir.

Q. Now what I want to know is, if such a margin as that usually obtains upon granulated sugars as between London and New York?—

A. I believe that the margin is less than any other known commodity of use or consumption. All my experience tells me that. It has been made, for various reasons, a specialty, and the people who have done the business have done it upon the most inconceivably small amount. I know it has been done where the profit was not $2\frac{1}{2}$ cents a barrel.

Q. What has been done?—A. Exports from the United States to England. I could not see the object in doing the business, actually.

Q. I understand you, then, to say that parties have shipped granulated sugar from New York to Liverpool when they couldn't expect to get in the Liverpool market a greater profit than, say, 25 cents a barrel; is that what you mean to say?—A. Yes; but they didn't get 25 cents. They didn't get $2\frac{1}{2}$ cents.

Q. I am inquiring as to the facts of the statement. I am not speculating about the matter. It is just a question of figures.—A. I know.

Q. That would indicate, then, that substantially the only difference between granulated sugars in London and New York would be about freights; not much difference except freights—a very small margin?—A. Freights and the rate of exchange.

Q. Then I understand you as saying that the margin upon granulated sugar between New York and London is exceedingly small, as a general thing?—A. Yes, sir; all the elements are taken into consideration; all the elements of freight, insurance, and exchange figured down to the minutest part of the thing.

Q. The exporter would have the benefit in his transaction of his drawback?—A. Yes, sir.

Q. That drawback is supposed to enter, as I understand it, to an equal extent in the domestic sale on the part of the refiner, and to simply cover the cost of his raw material?—A. The refiner has nothing to do with the drawback. He sells it at an enormous price, and the exporter gets it from the Government.

Q. That is not my question. You do not apprehend my question. The refiner would sell his sugar at a price above the London refiner, having the benefit of drawbacks, freight, insurance, and charges?—A. I do not think the refiner takes the drawback into account at all. He judges by his own market.

Q. Does he take into account what he has paid upon his raw sugar?—A. Yes, sir.

Q. That is, the exact measure of his raw sugar?—A. Yes, sir. What I mean to say is—

Mr. BRECKINRIDGE. I understand perfectly well; I see what you mean.

By Mr. CROUSE:

Q. I may not be able to express, in the terms that you are familiar with, the different kinds of sugar. We who use sugar know it as brown sugar, coffee A sugar, B sugar, granulated sugar, powdered sugar, cut-loaf sugar, and so on. Now, then, of these different kinds, in the course of your business, which has the largest sale to the country at large?—A. The consumption of granulated sugar has been steadily growing. The American people are beginning to learn that it is cheaper to buy that sugar at a higher cost than it is to take the lower grades, what are called soft sugars, at a less price.

Q. First, get at the quantity as near as you can. Which of these different grades of sugar goes out in the larger quantities from the center to the people all over the country?—A. I think now about half the production of the refined sugar—what is known as dry sorts—not soft sugar.

Q. Granulated sugar?—A. Yes, sir; powdered, cut-loaf, etc.

Q. About half of that kind; the other being what you people know as soft sugar?—A. Yes, sir; I think fully half.

Q. At this time what is the price of the first half of the best article of soft sugar?—A. The best article now would be, in my opinion—

Q. I don't want an opinion; I want a fact.—A. I will not take up the time of the committee to go into an explanation; 6 cents.

Q. What is the price, to-day, of granulated sugar?—A. Six and five-eighths cents net.

Q. In the course of your answers you spoke of a period of eight or ten years. I wish to inquire whether this price to-day, namely, 6 cents for a good article of soft sugar, and 6½ cents for granulated, taking a period of eight or ten years, is a high price or a low price or a medium price?—A. It is a low price. If you go back six or eight years it is a very low price. Refined sugars have been sold, without any regard to the duty, cheaper in this country for the last ten years than they ever were before, saying nothing about the duty.

Q. That reply is as to refined sugar?—A. Yes, sir.

Q. Now I want to get at what some people commonly believe, and what I believed until you corrected me, was the general sugar of the country that is used. Has it been brown sugars and soft sugars?—A. I spoke of refined sugars of all descriptions.

Q. Cheaper than ever before?—A. Yes, sir.

Q. You don't mean cheaper "than ever before?"—A. With one or two exceptions. In 1854, there was a very low price prevailing for a few months, and a great many people broke.

Q. What year was that?—A. I think 1847 or 1848, some where in that period. I know I was keeping a grocery store in that period, and I know that it was the lowest sale ever made.

Q. What was the price of granulated sugar, as near as you can remember, eight years ago?—A. I can not say; it may have been 9 cents or 10 cents.

Q. But it was considerably higher than now?—A. Yes, sir.

Q. Was it a little less seven years ago, not accounting now for fluctuations, but generally?—A. The general cost has been down. It went down with other sugars.

Q. Until it reached its lowest point, I think you stated, in 1885?—A. I think December, 1886, was about the lowest point. It kept along down with different variations until the fall of 1886.

Q. And the prices are now generally on the rebound?—A. Yes, sir.

Q. And you have given all the reasons in answers to other questions from gentlemen of the committee—you have given all the reasons that you can think of why these prices have gradually declined and are now on the rebound?—A. I have. I think it occurs in almost every production in the world that an advance follows an undue depression. When an article arrives at a point below which it can be produced, it holds at that price for awhile, and then reacts.

Q. You gave, if I am not mistaken, as a reason for the declining prices the bounties paid by foreign governments to induce their citizens to raise and export beet sugar?—A. Yes, sir.

Q. In the course of your answer to a question you spoke of speculators. I desire to ask you whether in the New York market that is a business that has obtained within the last eight or ten years of speculating in sugars; I mean by men who are not necessarily in the sugar business, but who speculate in sugars; has not that been a business?—A. It has not obtained; an effort was made and a sugar exchange was

established some years ago. I think there was a call of sugar made, and it continued for a long time; some sales were made of futures. Cotton would be sold or other goods would be sold on exchange; but they were small amounts; and my impression is that those sales were merely nominal sales for the purpose of getting people to deal on the exchange.

Q. I want to know whether it is a custom for anybody not in the sugar business to make actual purchases of raw sugars with a view of speculating in the article?—A. I would not call it a custom; it is done, but not, in my opinion, to a sufficient extent to say it is a custom; I think probably in New York you can find at any time a few lots of sugar that have been bought and held on speculation.

Q. Is that true at the present?—A. Yes, sir; I know some that have been bought in December for speculation by a man who occasionally buys sugar because it is a good investment.

Q. He bought it because the price was extremely low?—A. Yes, sir. Now in London there is a regular exchange and transactions in sugar, paper transactions, futures, certificates representing sugars for delivery have been going on for months just as regularly as they are upon our stock exchange of Central Railroad stock. The quotations come twice a day. We say there is nothing of that sort here that has any relation whatever to those speculations in Europe.

Q. In your opinion state whether or not the transactions that are entered into in New York in the shape of speculating in sugar materially affect the price of sugars?—A. I should say not. It is not of sufficient magnitude to affect the whole market.

By the CHAIRMAN:

Q. I call your attention to these figures which I extract from this table. The highest price of raw sugar in February, 1888, was $5\frac{7}{8}$ cents, and the highest price of refined sugar was $6\frac{3}{8}$ cents, making the difference between them during that month of $1\frac{1}{8}$ cents. In 1887 the highest price of raw was $4\frac{1}{8}$ and of refined sugar $5\frac{1}{8}$, making a difference of $1\frac{3}{8}$. In 1888 for February, the highest price of raw sugar was 5 cents and the highest price of refined sugar was $7\frac{1}{8}$, making a difference of $2\frac{1}{8}$ cents. Now can you afford me any explanation why there was that discrepancy between the price of raw and refined sugars in February, 1886, and February, 1888, except what may be furnished by the fact of the existence of this organization?—A. Yes, sir; I think I can explain it to you very clearly. In January, 1888, a very sudden advance occurred in England.

Q. Advance in what?—A. Beet sugar, raw sugar. The refiners, who had been rather indifferent to buying for some reason or other, went into the market and took everything that was offered.

Q. Here or there?—A. In New York—offered in Cuba, cost and freight at the highest prices that have been reached this year, $5\frac{1}{2}$ cents fair refining and $6\frac{3}{8}$ cents for 96 centrifugal sugars.

Q. The highest price for fair refining in February, 1888, was 5 cents. I call your attention to the February quotations.—A. I am explaining the difference why it occurred then. It was just before February came in. The refiners were working on high stock, so that their operations were based upon sugar that they just bought at a very high price, and before they got the sugar in or began to work much out of it, the market dropped off again, and they held the refined sugar up as long as they could.

Q. They held the refined sugar up to $7\frac{1}{8}$ when the raw was selling at 5

cents?—A. There was a decline of three-eighths of a cent in a very short time—from $7\frac{3}{8}$ to $6\frac{3}{8}$.

Q. Then you say the explanation you give of the extraordinarily high price of refined sugar— $2\frac{1}{8}$ cents above the price of raw sugar in that month—was that the refined sugar was being made from the high-priced raw sugar of January?—A. Yes, sir.

Q. And there was a drop of three-eighths of a cent during February?—A. Yes, sir.

Q. Then I call your attention to this fact, that allowing for the drop of three-eighths in refined sugar, the price of refined sugar was $1\frac{3}{8}$ above the price of raw sugar in February, 1888, as compared with $1\frac{1}{8}$ in February, 1886. Can you afford me any explanation of that difference other than that the production and sale of raw sugar was under the control of the gentlemen in this deal?—A. I must answer that on account of the greater sympathy between the offerings of sugar and demand.

Q. Does not that sympathy result from the combination caused by that deal?—A. Yes, sir; I am willing to incorporate that. There has been more uniformity in the trade.

Q. Now I understand you to say that this table of distribution here represents the amount of raw sugar which went into the hands of the refiners?—A. Yes, sir.

Q. It does not necessarily represent the amount which they put out?—A. No, sir.

Q. And they put out more or less in accordance with what they supposed their interest was, I take it?—A. Let me explain.

Q. There is no explanation necessary.—A. Do you use the words "put out?"

Q. I mean what they put upon the market. They control the amount put upon the market, do they not?—A. Yes, sir.

Q. So that these figures given in this table of distribution afford no explanation of the amount these gentlemen put upon the market necessarily.—A. Not necessarily.

Q. When did you say this depression, of which you have testified, enlminated?—A. About the middle of 1887; I think it was in July, the lowest quotations we have.

Q. The middle of 1887?—A. Yes, sir.

Q. I have it, in answer to Mr. Wilson, the end of 1885.—A. Yes; that was the general depression throughout the world. There were some parties who, owing to the operation of these figures, wanted to get out the sugars which they had advanced upon. They were transferred to other parties, and they carried them over for a good while, and then there was a little reaction until, I think, the lowest quotation we had for foreign markets was July, 1887, when we had that extraordinary quotation which I have mentioned of 10 shillings and 3 pence for this sugar.

By Mr. BRECKINRIDGE:

Q. I have been carrying out some calculations here, Mr. Morris. I find that in 1887, during the month of January, there was a margin between average fair refining and granulated sugar, taking the averages for both grades, of $1\frac{1}{8}$ cents.—A. Yes, sir.

Q. I believe 1 cent is considered a very liberal allowance to make a refiner whole?—A. That I can not answer. I have not been a practical refiner for a long time, and can not answer that question.

Q. I think that was testified to by Mr. Havemeyer.—A. I can tell you from my knowledge that it depends upon the sugar made, usually.

Q. Mr. Moller testified that a small amount would cover the cost of refining.—A. A smaller amount on centrifugal.

Q. The margin in February was $1\frac{1}{10}\%$; in March, 1887, $1\frac{1}{10}\%$; in April of 1887, $1\frac{1}{10}\%$; in May, $1\frac{2}{10}\%$; in June, $1\frac{4}{10}\%$; in July, $1\frac{4}{10}\%$; in August, $1\frac{4}{10}\%$. Now, I have read there a pretty good margin for June, July, and August. I understood you to say that that was a period of uncommonly low price for raw sugars, along last summer?—A. Yes, sir.

Q. And on account of the unusual depressions of raw sugars, I presume it is fair to expect that refiners would have had a pretty fairly profitable business?—A. Yes; foreign markets.

Q. When did raw sugars begin to rally? They rallied in September, did they not?—A. Yes, sir; in September they rallied.

Q. In October they got a little better. It was not until November that they got above 5; then they were $5\frac{1}{10}\%$; having begun to rally in October.—A. Excuse me, September was the rally on this table. The lowest here is "September, 81."

Q. What do you mean by "81"?—A. Four and eighty-one hundredths.

Q. These are supposed to be the same tables?—A. Yes, sir.

Q. I have looked them over pretty thoroughly, and I think they correspond. I find that in September it rallied to $4\frac{6}{10}\%$, that being the average price of the month, and since then there have been $4\frac{3}{10}\%$, $5\frac{1}{10}\%$, $5\frac{1}{10}\%$, and $5\frac{2}{10}\%$, as far along as down to the 1st of February.—A. Yes, sir.

Q. Now, prior to September, you would expect good profits because of the unusual depression in the raw sugars?—A. Yes, sir.

Q. We find, then, that during that period of marked depression the margin between the grades ranged from $1\frac{1}{10}\%$ to $1\frac{1}{10}\%$, and along there to $1\frac{4}{10}\%$ and $1\frac{4}{10}\%$.—A. Yes, sir.

Q. And in the month of September, when that condition, namely, of unusual depression in the raw material, ceased, you would expect, I suppose, that the margin of profit would cease to some extent, would you or would you not?—A. No; I think if they had kept the same profit by selling raw sugar, the raw sugar went down.

Q. You are not talking about a depression now; you are talking about the rally, the advance, that began in September?—A. Yes, sir.

Q. Is it customary for the advance of the refined article to instantly go up with the advance of the raw material?—A. They would follow each other pretty closely.

Q. You stated, however, that the depression in the raw sugars during the summer months was very great, uncommonly great, did you not?—A. I am saying that the period extended and that the reaction did not take place until after July.

Q. Do the facts bear you out?—A. Yes, sir.

Q. I understand you to say that, considering the exceptional cheapness of raw sugars, you are not surprised that a good margin existed during that period of depression between the raw and refined?—A. No, sir.

Q. You mean by "no" that you are not surprised?—A. I am not surprised; no.

Q. I would be glad to hear your reason.—A. Because, beginning from the middle of April, extending over a period of four months—May, June, July, and August—or you may say more particularly from May to the 1st of September, the fruit season, what is known as B sugar and C

sugar is largely consumed, owing to a great deal of preserving being done in the country, when the demand is materially increased; and unless there has been overstocking previous to that time, the general course of the refined product is upward during the sugar season.

Q. What period are you speaking of.—A. The sugar season, say from May to October.

Q. That was a season when raw sugars, as you state—and I see you are borne out by the official quotations—were very low; a season, as you state, when the demand for sugars is usually uncommonly good?—A. Yes, sir.

Q. And you stated that it is considered a good season for the refining?—A. Yes, sir; known as the sugar season.

Q. And therefore you are not surprised at there being a good margin between raw and refined during the months that I have read—June, July, and August; and I assume from what you stated that the margin that obtained during April, May, and June is what would commonly be called a good margin, $1\frac{1}{10}\%$, $1\frac{2}{10}\%$, and $1\frac{4}{10}\%$?—A. A fair margin.

Q. When does the season begin that is considered the depressed season with the refiners?—A. November is the beginning of the "rainy season," I may call it.

Q. I find that in September the margin, instead of being $1\frac{1}{10}\%$ as in April, and $1\frac{2}{10}\%$ as in May, was $1\frac{5}{10}\%$. Is that an unexpected difference? Would you expect it to be much different in September from in May, June, and April?—A. That would probably be owing to some other causes which do not appear.

Q. Now let us compare it and see how it is maintained. In November it was $1\frac{4}{10}\%$, as compared with $1\frac{1}{10}\%$ in April. In December it was $1\frac{7}{10}\%$, as compared with $1\frac{1}{10}\%$ in April and $1\frac{1}{10}\%$ in May, which are usually considered profitable months?—A. Yes, sir.

Q. In January you would expect the business to be running rather close, would you not?—A. That would depend upon circumstances. Yes; it would, generally.

Q. I find there the margin has advanced to $1\frac{7}{10}\%$.—A. Yes, sir.

Q. In February it was $1\frac{5}{10}\%$. How do you account for the higher margin obtaining during what you tell me is the poorest season of the year to your refiners? They seem to have outdone themselves in the matter of making money.—A. I think that the New York market did not sympathize fully. They were slow in appreciating the fact that it was getting at an advance. We had some stock of spot goods there that kept our market down.

Q. Do you know of any cause except the power to control the sales that arose from this union of refiners?

The WITNESS. Do you mean the difference in the margin at the time you have been reviewing?

Mr. BRECKINRIDGE. Yes.

The WITNESS. I should say that was the main fact.

By the CHAIRMAN:

Q. I call your attention to this paper shown you, and ask you whether that is one of the recognized trade circulars issued in New York and accepted there as a standard?—A. The statistics presented by this paper is considered as nearly correct as they can be obtained. The main facts are taken from the custom house.

Q. I call your attention to this particular statement there. In this column of figures headed "Actual meltings of raw sugars," does that

mean the actual amount melted and refined in the refineries?—A. Yes, sir.

Q. You will observe that that amount in December, 1887, was much less than it was in December, 1886.—A. Yes, sir.

Q. In that respect, then, if you have testified differently you have been mistaken?—A. For that month. I understood the question covered the time from the 1st of December up to the 1st of March. I thought you took in three months.

Q. As to the month of December it was not?—A. No, sir; there were certain things that were required in the formation of this arrangement. The refiners had to make out a schedule of their property and show their position; that was compulsory. No refiner could make a satisfactory statement of his condition without doing that. It was necessary to do so.

Q. Yet you understand from the testimony of the witnesses here that that was all done and completed when this trust went into operation, before the 1st of December, 1886?—A. I do not know that they said it was completed.

Q. That is their testimony. If that be true, then the fact that they were making up schedules would not account for this discrepancy?—A. No, sir.

Receipts direct and distribution (in tons).

NEW YORK.

	RECEIPTS.										
	1887.	1886.	1885.	1884.	1883.	1882.	1881.	1880.	1879.	1878.	1877.
January...	50, 114	42, 294	58, 124	52, 862	44, 444	32, 877	36, 460	28, 806	35, 034	26, 259	20, 415
February...	49, 054	84, 168	57, 277	64, 218	32, 174	37, 276	48, 356	40, 618	39, 789	25, 914	32, 324
March.....	80, 972	82, 338	102, 586	85, 718	50, 006	59, 321	62, 593	49, 762	48, 632	32, 994	56, 213
April.....	123, 023	83, 622	98, 078	74, 812	77, 115	64, 980	75, 334	81, 953	62, 901	53, 057	49, 572
May.....	124, 318	94, 731	112, 738	122, 034	69, 077	76, 041	69, 671	78, 393	66, 594	65, 925	60, 222
June.....	88, 392	89, 046	73, 066	74, 308	74, 562	67, 903	72, 748	74, 622	56, 591	63, 953	81, 020
July.....	49, 881	96, 000	67, 148	66, 109	61, 294	57, 753	47, 034	43, 397	47, 263	54, 883	53, 225
August.....	59, 950	71, 324	53, 314	52, 612	40, 635	40, 767	31, 227	35, 543	28, 500	38, 905	26, 633
September...	35, 066	56, 854	40, 621	38, 675	36, 000	34, 635	17, 923	35, 752	30, 696	28, 817	24, 750
October.....	38, 502	38, 038	40, 247	34, 774	41, 477	37, 298	24, 663	38, 496	30, 729	33, 030	28, 147
November...	40, 061	47, 299	42, 500	45, 799	52, 200	24, 697	26, 511	28, 112	29, 840	35, 257	24, 688
December...	42, 366	51, 101	60, 823	34, 808	57, 467	41, 782	33, 980	22, 019	34, 999	22, 965	19, 435
	783, 734	837, 415	806, 517	746, 729	687, 058	575, 330	546, 500	563, 495	511, 628	481, 969	476, 644
	DISTRIBUTION.										
	1887.	1886.	1885.	1884.	1883.	1882.	1881.	1880.	1879.	1878.	1877.
January...	50, 280	52, 776	71, 002	60, 477	42, 888	35, 467	38, 628	31, 339	36, 799	28, 193	34, 562
February...	55, 042	66, 316	55, 175	55, 896	41, 182	45, 644	43, 076	46, 336	36, 360	30, 714	28, 957
March.....	86, 071	68, 305	80, 665	66, 652	47, 118	54, 482	58, 047	42, 889	38, 436	35, 444	37, 191
April.....	99, 442	62, 860	68, 370	66, 839	47, 906	49, 359	64, 103	46, 317	43, 502	43, 880	42, 411
May.....	65, 067	63, 868	87, 635	65, 093	64, 834	59, 483	66, 315	39, 540	49, 291	48, 708	42, 913
June.....	60, 832	79, 811	61, 010	62, 238	53, 754	57, 343	46, 493	64, 738	46, 456	47, 864	49, 580
July.....	62, 850	78, 482	61, 059	60, 855	57, 340	42, 963	35, 068	52, 492	42, 428	44, 064	33, 706
August.....	70, 340	83, 703	71, 228	69, 941	47, 955	52, 125	38, 532	54, 617	33, 299	45, 407	29, 720
September...	75, 030	67, 751	81, 816	58, 662	65, 049	52, 018	46, 783	48, 024	49, 956	46, 036	43, 734
October.....	75, 525	58, 955	50, 928	68, 410	58, 443	47, 076	45, 366	50, 686	61, 551	36, 334	50, 954
November...	50, 831	52, 575	48, 923	42, 059	52, 603	29, 430	30, 193	48, 326	26, 113	33, 290	38, 303
December...	50, 849	60, 541	66, 827	44, 765	50, 061	42, 243	55, 354	34, 871	22, 035	38, 221	39, 245
	727, 914	796, 203	825, 558	727, 877	629, 236	567, 660	568, 558	560, 175	491, 236	475, 655	474, 278

continued.

1880.	1879.	1878.	1877.
3,291	4,595	5,434	2,377
6,403	6,494	1,660	5,581
16,126	13,000	9,579	10,088
27,404	22,176	12,412	16,539
16,853	20,511	7,969	22,320
12,001	22,332	8,892	18,351
6,524	8,872	14,609	8,586
6,371	6,343	13,615	7,399
7,235	5,353	8,329	3,235
5,814	2,819	6,443	12,594
4,757	4,095	4,101	8,324
4,137	7,807	2,913	4,881
117,816	124,457	96,010	120,275

3,573	6,410	9,361	3,909
5,154	8,249	5,191	7,466
13,293	12,630	12,331	3,909
18,681	15,474	11,526	14,245
9,594	16,657	6,319	17,263
11,650	42,684	7,303	9,359
7,933	10,440	9,471	5,174
9,441	11,043	14,264	3,942
9,560	12,490	10,519	6,933
10,834	13,454	5,407	9,022
7,539	9,149	5,026	10,227
7,578	8,752	4,641	8,509
114,839	132,838	101,350	99,958

1880.	1879.	1878.	1877.
1,607	2,880	978	.....
2,319	3,296	2,246	1,099
7,961	11,281	5,028	3,914
11,570	10,400	7,118	3,958
7,951	8,460	7,555	3,325
6,080	13,459	8,176	3,471
6,561	5,649	7,271	2,760
2,302	3,173	4,521	2,477
659	1,945	3,754	1,045
1,434	1,309	1,910	1,377
1,408	792	2,310	416
1,534	1,396	2,095	756
51,446	64,031	52,962	23,628

3,836	3,743	1,454	298
2,154	2,642	2,022	917
5,101	7,264	4,594	3,413
4,420	9,025	4,454	2,488
7,749	5,595	0,195	3,297
6,060	10,008	7,072	801
6,381	4,277	5,338	2,379
4,626	8,060	5,094	4,496
3,619	3,979	6,134	2,678
2,783	6,671	3,463	1,295
3,482	667	2,434	513
3,527	1,358	3,034	898
53,738	63,289	51,888	23,543

TRUSTS.

Receipts direct and distribution (in tons)—Continued.

BALTIMORE.

	RECEIPTS.								
	1887-6-5	1884.	1883.	1882.	1881.	1880.	1879.	1878.	1877.
January.....				464	722	1,048	392	1,912	4,200
February.....			369		457	504	668	798	2,689
March.....		203		459	865	124	1,057	1,737	6,001
April.....				492	151	292	582	4,276	5,754
May.....		183	217	937	672	344	33	4,730	7,962
June.....			2,082	539	365	455	2,647	2,929	5,825
July.....			496		487	484	1,805	2,105	5,843
August.....				437	750	663		2,079	1,867
September.....			204		427	261	84	706	1,394
October.....				221	217	1,178	113	242	368
November.....					355	257	440	1,425	1,376
December.....			251	542		317	1,070	887	650
		380	3,619	4,091	5,468	5,927	8,891	23,326	43,480
	DISTRIBUTION.								
	1887-6-5	1884.	1883.	1882.	1881.	1880.	1879.	1878.	1877.
January.....				464	748	1,329	590	1,699	1,075
February.....			369		457	712	726	870	5,593
March.....				216	666	118	515	1,948	2,653
April.....					199	124	127	2,641	6,773
May.....		183		556	635	448	677	3,490	6,991
June.....			2,082	207	17	449	2,410	2,617	5,531
July.....		205	290		1,040	498	2,467	960	2,399
August.....		453		1,555	750	668	231	4,740	4,435
September.....				350	427	398	62	2,115	2,980
October.....			206	221	217	681	151	478	2,315
November.....			217		355	754	16	418	2,134
December.....				542		317	887	825	1,524
		841	3,164	4,091	5,511	6,491	8,859	22,831	44,303

TOTAL FOUR PORTS.

	RECEIPTS.									
	1887.	1886.	1885.	1884.	1883.	1882.	1881.	1880.	1879.	1878.
January ..	66,505	51,509	73,678	63,386	58,110	40,031	49,220	34,752	42,901	34,583
February...	71,176	106,991	73,412	80,958	45,632	58,639	63,104	55,861	50,247	30,618
March.....	113,209	114,301	139,687	134,514	77,035	83,029	85,063	73,973	73,970	49,334
April.....	165,224	112,401	134,477	102,608	110,066	108,456	108,671	121,219	96,059	76,863
May.....	172,344	140,791	151,719	188,374	108,268	111,016	106,686	103,541	95,598	86,179
June.....	118,868	123,800	118,316	105,827	113,964	105,132	102,089	94,058	95,029	83,950
July.....	82,323	134,549	88,325	92,533	92,691	78,430	59,107	56,966	61,589	78,928
August.....	88,125	87,525	69,305	80,259	62,065	60,709	42,567	44,879	38,676	59,120
September	57,858	87,601	60,046	58,418	55,680	51,730	22,362	43,907	38,078	41,616
October.....	58,670	53,748	53,097	42,505	51,915	51,555	29,273	46,924	34,961	41,625
November	58,188	67,339	54,509	59,494	74,226	37,848	39,327	34,594	35,167	43,096
December	58,151	70,132	76,583	42,375	74,824	52,286	45,801	28,007	45,332	28,360
	1,110,641	1,161,087	1,089,154	1,042,251	924,476	839,451	753,210	738,684	709,007	654,276
	DISTRIBUTION.									
	1887.	1886.	1885.	1884.	1883.	1882.	1881.	1880.	1879.	1878.
January.....	74,708	65,313	88,583	80,150	55,646	49,204	52,448	40,077	47,542	38,677
February...	77,164	89,136	70,830	74,509	55,834	66,404	54,406	54,356	47,997	38,797
March.....	118,939	96,487	111,965	105,828	70,306	78,058	77,323	61,401	58,845	54,357
April.....	136,470	89,791	118,971	93,117	73,172	80,819	88,063	69,542	70,128	62,001
May.....	126,116	103,178	121,155	98,919	93,746	90,548	95,735	57,331	72,210	64,712
June.....	91,476	107,671	95,270	94,025	87,161	86,683	65,795	82,906	71,558	64,856
July.....	96,792	115,008	82,667	91,842	84,947	66,740	52,785	67,299	59,618	59,833
August.....	104,914	112,044	96,347	98,526	77,483	78,305	57,908	60,352	52,633	70,105
September	98,182	102,055	109,671	82,663	92,559	75,205	65,960	61,601	68,487	64,904
October.....	100,001	79,273	71,788	83,230	79,288	64,842	58,331	64,984	85,227	45,682
November	73,185	73,163	61,565	57,906	74,802	44,299	39,627	60,101	35,945	41,189
December	67,175	83,021	87,180	53,252	68,929	52,474	67,861	46,293	28,032	46,721
	1,165,122	1,116,136	1,121,012	1,013,965	913,878	833,081	776,282	735,243	696,222	651,733

ACTUAL MELTING OF RAW SUGAR 1885, 1886, 1887.

Months.	Actual melting of raw sugar.			Average daily melting of raw sugar.		
	1887.	1886.	1885.	1887.	1886.	1885.
January	71,661	70,742	83,671	2,866	2,826	3,218
February	83,428	82,674	77,998	3,627	3,594	3,391
March	112,809	88,512	105,517	4,170	3,278	4,058
April	102,069	74,315	81,092	3,918	2,258	3,119
May	111,388	90,083	119,837	4,274	3,601	4,703
June	93,706	114,011	97,619	3,504	4,385	3,755
July	97,692	106,420	94,199	3,908	4,093	3,633
August	124,924	117,852	109,685	4,927	4,533	4,387
September	118,322	124,687	107,364	4,653	4,787	4,129
October	96,517	87,645	88,653	3,712	3,371	3,281
November	70,926	75,108	71,583	2,855	3,130	3,112
December	64,210	82,408	83,824	2,469	3,169	3,363
Tons	1,145,450	1,114,442	1,121,022			

By Mr. BRECKINRIDGE:

Q. Are you familiar with the calculations for determining the amount of drawbacks that ought to be paid on the exports of sugar?—A. Somewhat familiar with it.

Q. That has not been a matter of special supervision on your part?—

A. I have assisted them when some mistakes were made in regard to it.

Q. You do not consider yourself an expert on that?—A. I do not.

By Mr. BUCHANAN:

Q. As a broker have you dealt in sirups as well as sugar?—A. Yes, sir.

Q. Sirup is sold by the gallon and not by the pound?—A. Yes, sir.

Q. Can you tell me from your knowledge of that subject, without taking the time to go into an elaborate calculation, which is worth more per pound, fair refined sugars or sirups, turning the gallons into pounds.—A. Sugar is worth a great deal more, because sirup is supposed to contain and does contain a large amount of water.

Q. Sirup, then, is the lowest-priced per pound product of the refiners?—A. Yes, sir.

(After fifteen minutes spent in executive session, the doors were reopened, and the chairman announced that the committee had adjourned until Friday, March 16, at 10.30 a. m.)

WASHINGTON, D. C., *March 23, 1888.*

The committee met at 11 o'clock a. m., pursuant to adjournment.

Present, the chairman, Mr. Breckinridge, Mr. McKinney, Mr. Wilson, Mr. Bynum, Mr. Buchanan, Mr. Bunnell, Mr. Crouse, and Mr. Smith.

The CHAIRMAN. There is some business to be transacted in executive session, and Mr. Spreckels is here as a witness. I submit to the judgment of the committee whether we should hold our executive session in advance of the examination of the witness, or afterward. If there be no objection, as Mr. Spreckels is here present, we will go on with the examination.

There was no objection.

CLAUS SPRECKELS SWORN AND EXAMINED.

By the CHAIRMAN:

Q. What is your full name?—A. Claus Spreckels.

Q. Where do you reside?—A. San Francisco, Cal.

Q. What is your business?—A. Sugar refining.

Q. How long have you been engaged in that business?—A. Since 1864.

Q. Where have you been located in carrying on that business?—A. San Francisco.

Q. Have you been continuously engaged in the manufacturing of sugar since that time?—A. Yes, sir.

Q. When you commenced business in 1864 were there any other refineries in San Francisco?—A. Yes, sir.

Q. How many?—A. There was one called the San Francisco Sugar Refinery Company. Then another was built adjoining, and they called it the Pacific, and both were merged into one, and they called it the San Francisco and Pacific Sugar Refinery Company.

Q. That was the only one there when you began?—A. That was the only one.

Q. Is that San Francisco Refinery in operation now?—A. No, sir.

Q. When did it go out of operation?—A. I can not state exactly.

Q. State approximately.—A. About 1878; I won't be positive; it may have been 1876.

Q. Somewhere between 1876 and 1878?—A. Yes, sir.

Q. Have there been any others since, except yours?—A. Yes, sir.

Q. Name them, please.—A. There were four in fact. First the San Francisco and Pacific; then what is now the American, called "The Bay;" and the Golden Gate. There were four at certain times; the Golden Gate was the smallest, with a capacity, perhaps, about 30,000 or 40,000 pounds, not more.

Q. How many are there now?—A. There are two; that is to say, there is the California, the old one, but of course it is closed up. I built a new one. The San Francisco and Pacific stands there, and there is the American; but the Golden Gate has ceased some years ago.

Q. Is this what you call the San Francisco and Pacific, that has not been in operation since 1878?—A. Yes, sir; it has not been in operation since that time.

Q. Is the building there?—A. Yes; the machinery is there.

Q. But it is not in operation?—A. No, sir; it is out of date.

Q. Has the Golden Gate entirely suspended?—A. Yes, sir.

Q. What was the other one?—A. Now the American Refinery; used to be called The Bay.

Q. What is its capacity?—A. They say about 500,000 or 600,000 pounds; of course I can not tell exactly, but from 500,000 to 600,000 pounds daily.

Q. In the testimony which we have taken in New York, the amount of sugar has been estimated by the barrel, and the barrel at 300 pounds; is that about the way in which you take it?—A. Yes, sir; some varies a little more. For instance, cube sugar weighs a little less, perhaps 225 or 250 pounds.

Q. What is the capacity of your refinery?—A. About 1,200,000 pounds a day.

Q. What kind of sugar do you manufacture principally?—A. Do you mean the import from Manilla?

Q. No; I mean the product, the refined sugar; what kinds of refined sugar?—A. All kinds, except what you call cut loaf. We make all kinds except that.

Q. Do you make hard sugars?—A. Yes, sir; we make crushed sugar and make loaf sugar.

Q. And is the majority of the product of your refinery hard sugars, crystallized sugars?—A. What you call hard sugar has, perhaps, different terms. It is called mold sugar, cube sugar, or crushed sugar. Now the most that is sold is what we call granulated sugar, that is dried in the machine; it is crystallized and run through the centrifugal, and then goes to a machine and is dried and put into barrels. That is the sugar that is mostly consumed in America.

Q. That is, the principal product, then, is granulated sugar?—A. Yes, sir.

Q. The terms hard and soft sugar as we have used them, or the witnesses who have been here have used them, is distinguished between crystallized sugar or dried sugar and the soft sugar?—A. Yes, sir; what they call soft sugar is not dried. There is so much per cent. of moisture in there, and the other is all dried up. They are of course not white; they turn a little yellow.

Q. They are not so thoroughly crystallized?—A. No, sir.

Q. The greater part of the product your refinery, as of the New York refinery, is the crystallized hard sugar?—A. Just about the same.

Q. What raw sugars do you use?—A. The Hawaiian, Central American, and Manilla.

Q. What proportion of your raw sugar comes from Hawaii?—A. I think about 40,000 tons.

Q. Forty thousand tons of Hawaiian sugar?—A. Yes, sir.

Q. Is that your average per year?—A. No, sir; about 115,000 or 120,000 tons. I understood you to ask me how much I used.

Q. I asked you how much you used in your refinery, not what you produced.—A. I have about 40,000 tons bought from the Sandwich Islands. We get likewise nine or ten or maybe twelve thousand tons from Central America.

Q. How much from Manilla?—A. Forty thousand tons so far; I may have 50,000 tons before the year is out.

Q. Will you explain the method of doing business in the San Francisco market with relation to the purchase and sales of raw sugars? I will state to you what information I want. The testimony here shows that in New York the raw sugars are sold by brokers, either in cargoes which have already arrived, which they call spot sugar, or upon orders received from other places, authorizing them to sell cargoes of sugar. Will you state how, in relation to that subject, the business or traffic in raw sugar in Central America is done.—A. We get from Manilla our quotations every day by cable; they make a certain offer.

Q. You say "they;" whom do you mean?—A. Somebody in Manilla; there are several houses there, and we get from them, say, a quotation of sugar, 3,000 or 4,000 tons, to be delivered to us, we providing the vessels, under a letter of credit to buy the sugar from them. If we accept that offer, that letter of credit is either cabled to them or sent by mail to the parties who sent the sugar to us and they draw on us.

Q. How is it done with Central America?—A. My sons are the agents for the principal houses in Central America—John D. Spreckles & Bros.

Q. In the city of San Francisco?—A. Yes, sir; they are selling it for the Central American refineries. It is very strange that the father and

sons, who are interested together, should be so trusted as the agents for that product; but the Central American people are perfectly satisfied. They also sell coffee, and they are better satisfied now than before.

Q. How long has that arrangement been going on?—A. About four or five years.

Q. Now, how is it done with reference to sugar from the Sandwich and Hawaiian Islands?—A. I had for several years a contract with the Hawaiian planters based on Manilla prices.

Q. With whom?—A. With the planters direct.

Q. In the Hawaiian Islands?—A. Yes, sir; at Manilla basis. They started in No. 10 Dutch standard; to pay for that sugar they added duty, commission, freight, and insurance; at that day the Hawaiian Island sugar would be sold at the ruling quotation of Manilla sugars.

Q. So that under those contracts the price was determined by the price of the Manilla sugar on the arrival of the cargo?—A. Yes; when the vessel came in.

Q. Came in where?—A. San Francisco. There might not have been any change in Manilla.

Q. Then the sugar was paid for at the last quotation preceding the arrival of the vessel at San Francisco?—A. The vessel from the island when it came in to San Francisco.

Q. I will show you a set of samples, Dutch standard, of sugar. Will you indicate, please, from them what the grade of the sugar is as it ordinarily comes from the Sandwich Islands?—A. We have sugar darker than that No. 6; we have No. 15. The island sugar is not compared with this dark sugar, and you can not make a standard of it at all.

Q. Is the island sugar yellow?—A. Yes, sir.

Q. Instead of gray?—A. This is more gray.

Q. You say it runs all the way from a sugar as dark as No. 6 to a sugar as light as No. 15?—A. Yes, sir.

Q. Is there any sugar which comes from the Sandwich Islands in such condition of purity as would enable you to put it directly upon the market without refining?—A. It has been done.

Q. How much of such sugar comes?—A. Very little. You can sell but little of such sugar on the market. They only want little of that. For instance, they have the saw mills, and certain people want that sugar the same as they want the New Orleans molasses; they want the raw sugar.

Q. That is the only purpose for which the unrefined sugar is used?—A. Yes, sir; and we pay more for that sugar when of the same color as we would sell our soft sugar, just so the color and looks and cleanliness is there. The people only buy for certain purposes this island sugar.

Q. You say this sugar varies all the way from No. 6 to No. 15?—A. Yes, sir.

Q. Can you say what the average, the general grade is?—A. Yes, sir; I can tell that. Generally, No. 1 would be what we consider No. 15. Of course, some plantations don't have as good machinery as others, but they get from 72 to 76 per cent. of No. 1.

Q. Does it come to you in 72 per cent. or 72 and 76 per cent. of the entire importation, as good as this?—A. Yes, sir; we have there from 72 to 76 per cent. of that grade.

Q. And how much of it, if any, comes between this very low grade and grade No. 15?—A. You have No. 2 sugar.

Q. No. 2 is high sugar?—A. No. 2 comes next to No. 1.

Q. No. 1, as you call it, is about equivalent to No. 15?—A. Yes, sir.

Q. And No. 2 is about equivalent to No. 13?—A. Some may be. They make it different in some plantations.

Q. Is there more of No. 2 than there is of No. 3?—A. Yes, sir.

Q. And the dark sugar is the least in quantity?—A. Yes, sir.

Q. Now, what is there about the importation from that island; what is the amount of it?—A. The average, I think, this year will be 115,000 tons.

Q. Do you remember what it was last year?—A. About 110,000 or 112,000 tons; in that neighborhood.

Q. How much the year before?—A. A little less.

Q. So that it is increasing?—A. Yes, sir; this year I think they will have fully 120,000 tons; that is my estimate.

Q. The amount coming in is increasing year by year?—A. Yes, sir.

Q. Is that due to the fact that more sugar is being produced there, or to the fact that the market is being open, and it comes this way instead of going somewhere else?—A. It can not go anywhere else. Suppose they wanted to sell it to England; they could not ship it there. They would not get any more than Cuba. The planter has the benefit of this duty now; the refiner has not. The planter has the benefit entirely of this duty.

Q. What difference, if any, is there in the price paid for Sandwich Island sugar and the sugar from Central America or Manilla, or any other place where the duty is paid?—A. As I have stated to you before, I have been buying for three or four years at the rate of Manilla, but with duty, insurance, and everything paid. That would be the price. Then they say, no, we want at the cost of centrifugal only; and the New York market has been higher than the Manilla. We say we will allow half a cent off, and you must take the sugar at the time of arrival at what the New York sugar is. So you have to take the sugar whether you want it or not, and at that price. I have lost some money by that operation.

Q. I believe I understood you, but I wish to be sure that I do. You pay the same price for the sugar from the Sandwich Islands to the planter as you pay for the Manilla sugar?—A. No, sir.

Q. Then the planter gets the duty?—A. There is half a cent off on the Cuba basis, of sugar they sell in New York, duty paid. With the exception of that half cent off the planter gets the duty.

Q. You pay the same price?—A. We buy the whole crop for the year and we are responsible for that sugar, no matter if it goes down.

Q. You pay for the Sandwich Island sugar the price which is paid in New York for Cuban sugar less half a cent difference in freight?—A. Yes, sir.

Q. Is that half a cent a pound?—A. Yes, sir. The most of the sugar comes there in three or four months, and you have to store that sugar and run the risk. For that risk you get that off. They sell you the whole crop.

Q. You buy the whole crop on those terms?—A. Yes, sir.

Q. And it is all delivered during what period of the year?—A. The first will come there about January—a little. The most comes now in April, May, and June; these are the heaviest months. They grind there from four to five months and get it off as quick as they can. Some plantations can do it quicker than others.

Q. Now, how long has it been that you have paid for the Sandwich Island sugar, Hawaiian sugar, upon the basis of the New York price?—A. About three years now, I think.

Q. Now, with reference to the Manilla sugars; those sugars pay duties?—A. Yes, sir.

Q. Upon what basis are they sold?—A. We must buy them ourselves. I explained, I believe, Mr. Chairman, that we buy them in Manilla. When they come to San Francisco they are polarized, and we pay the duty accordingly.

Q. That is, you buy them less the duty?—A. We buy them less the duty; when they come to San Francisco we pay the duty.

Q. Is there any relation or arrangement similar to that of the Sandwich Islands by which the price at Manilla is fixed with reference to the New York price or the London price when you buy at Manilla?—

A. Of course there is. It sometimes makes a quarter of a cent difference. Sugar has been up to 16; now it is about 14.4, or something like that. I have not looked at that. We go in there and buy that, and pay half a cent more. We generally look out for ourselves. We buy cheap, and get our offer. There is a difference sometimes of 1 cent a pound in buying. If the market is weak we watch our opportunity and buy cheap.

Q. How are these Central American sugars sold?—A. Sold on the basis of New York.

Q. Any allowance there for freight?—A. How do you mean?

Q. Differential rate, I mean. You say the Sandwich Islands allow you half a cent. I want to know what they allow.—A. We buy at Cuba basis, at one-quarter of a cent less.

Q. By Cuba basis you mean the price for Cuban sugar in the port of New York?—A. Yes, sir; duty paid.

Q. Now what grade is the sugar that comes from Central America?—A. A great deal of it has a color similar to that of the Hawaiian sugar.

Q. Most of it is as high as this No. 15?—A. No; there is not much of that in Central America. It is a little darker.

Q. The testimony here shows that the sugar coming into the New York market is as far as possible kept below 13.—A. Yes, sir; there is a good reason for that.

Q. The reason for it is apparent in the tariff?—A. Yes, sir.

Q. Now is that arrangement attempted with regard to the Central American sugar brought to San Francisco?—A. Under 13.

Q. So far as possible the crop is kept below 13?—A. Yes, sir.

Q. Of course that is true also of the Manilla sugar, as I take it?—A. Yes, sir.

Q. The Manilla sugar also goes to the port of New York?—A. Yes, sir.

Q. Do you know what the difference in freight is to New York and to San Francisco?—A. I know it is in favor of San Francisco in some cases, where in other cases it is in favor of New York. At present I think the freight is less from Manilla to New York than from Manilla to San Francisco. We have too many vessels lying in San Francisco waiting for freight. If there is a good price for wheat the vessel wants to go to San Francisco to make freight. Then you can get it very low.

Q. As a general rule for the past ten years, have the rates of freight been in favor of San Francisco or New York?—A. San Francisco; but I think not now.

Q. At present that is not the situation, you think?—A. I do not think so now.

Q. The present situation is due to the fact that there is no freight from San Francisco out?—A. No, sir.

Q. The prices of wheat are such that they can not get a freight?—A. That is it.

Q. Now, about how much sugar comes from Central America to San Francisco?—A. I think from 9,000 to 11,000 tons.

Q. And how much from Manilla?—A. As I said, about 40,000 tons.

Q. That is, that you have?—A. Yes, sir.

Q. There is another refinery there.—A. They can not refine the island sugar. They have not capacity enough to refine that. They do not import any.

Q. Then is there more raw sugar brought to the San Francisco market than the refineries there can refine, or more than they do refine?—A. No, sir: I won't say that. Say the American refinery has 80,000 tons of the sugar; they can not refine that 80,000 tons of sugar, so they have to send it away.

Q. What becomes of that surplus?—A. It is sent to New York.

Q. Do you buy any of it?—A. No, sir.

Q. Is there a commercial or business arrangement existing between you and the American refinery?—A. No, sir.

Q. You are strictly competitors?—A. Yes, sir.

Q. Both in the purchase of raw sugar and in the sale of refined sugar?—A. Yes, sir.

Q. What portion of this country furnishes you the market for your refined sugar?—A. I do not understand the question.

Q. Where do you sell your sugars?—A. In all the Territories and as far as the Missouri River. If we have a surplus we have to bring it through.

Q. Do you sell up and down the Pacific coast from San Francisco?—A. You mean by Portland, Oregon?

Q. Do you sell to Oregon?—A. Yes, sir.

Q. And you sell along the line of the Southern Pacific?—A. Perhaps, the Southern Pacific coast, likewise shipping to Missouri by different railroads from one to another.

Q. You cover New Mexico and that part of the country?—A. Yes, sir.

Q. Do you come in competition, at any time, with the Louisiana sugar crop?—A. I think not, that is providing they send to the Missouri River; but we don't ship any when the Louisiana people are there.

Q. Then they do during a portion of the year when their crop is marketed?—A. We do not ship at all then.

Q. Have you come in competition at any point with the New York, Philadelphia, or Boston refineries?—A. They have shipped to San Francisco.

Q. Much of it?—A. Sometimes.

Q. When?—A. Years ago; now we can hold it against them. They can not ship it like they used to. They would like to have the whole market, but they can not.

Q. How far west of the Missouri River, if at all, do you find the Louisiana crop interfering with your sales?—A. I can not say; I have no information.

Q. I mean competing with you?—A. We did not have any sugar this year. California did not have any to spare this year. We were short. The American refinery does more shipping. They buy very little. Now we ship to Portland, Oregon, Denver, Salt Lake, and supply the entire Sacramento Valley. They all send their orders in. Of course, the price is what the price would be on the Missouri River. The American refinery, when they ship to the Missouri River, make the price at San Francisco in accordance with the price at the Missouri River; whatever we can get at the Missouri River.

Q. Will you explain more fully why the price at the Missouri River regulates the price at the city of San Francisco?—A. We have there the surplus. We have to get rid of the sugar, and the price in San Francisco is what the refiner can get at the Missouri River. That equalizes that.

Q. Then that equalization comes as the result of the competition between the two refineries?—A. Yes, sir.

Q. Now, can you tell me approximately—and I would prefer you would answer the question by giving the price per pound—what the price per pound of raw sugar has been in the San Francisco market during the last year or two, averaging it?—A. It is pretty hard for me to state, because there has been sometimes a difference of three-quarters of a cent a pound in those two years.

Q. What was the highest?—A. I can not state. I have so much to think about that I forget those little details. You could find that out by statistics here in Washington.

Q. Now, with regard to refined sugars, what has been the price?—A. The price last year has been, say, from 6 up to 6½; and still we were short; we could not supply the customers. The American refinery, I believe, had 7½ cents. We sold ours for 6½. Of course, we could not supply the market, so that they had the benefit. They sold theirs at 7½ cents. Our Manilla vessels did not come in for, sometimes, one hundred and one days. Of course, we would expect it sixty days on an average. Of course, we could not run enough; we had not enough to supply.

Q. What was the price in February for refined sugar in San Francisco?—A. I think it was 6½.

Q. What was the price for raw sugar at that time—February of this year?—A. Manilla sugar is now half a cent higher than what we bought last June, duty paid; cost a little over 4 cents a pound—the cargo we got on last June. Now, as to the other sugar, I could not tell. I am not positive of it.

Q. That was under a contract by which the price was fixed last June?—A. Yes, sir.

Q. Raw sugars have increased in price since that time?—A. Yes, sir; it varies.

Q. What difference in price between raw and refined sugar is necessary in order to make business of refining profitable?—A. That is a hard question to answer. Do you mean here in New York?

Q. No; in San Francisco.—A. There is, for instance, at present—when I left there, coal was selling at \$14. Generally it should be \$6 and \$7. Now you have to pay \$14 for coal.

Q. I mean averaging it. I do not mean exceptional times or exceptionally low prices.—A. I have not figured on it, and can not be positive. Perhaps from 60 to 75 cents per hundred pounds for refining.

Q. From 60 to 75 cents a hundred?—A. Yes, sir.

Q. Is it more expensive to refine sugar at San Francisco than it is in New York?—A. Yes, sir.

Q. Why?—A. We pay first \$2 for our common laborers a day. Our coal is high. Our barreling is more expensive. We get that all over there. Our people get more wages than you get here. You pay here perhaps \$1.20 or \$1.25 a day. I never pay less than \$2 a day. Another reason, perhaps, if I would go over the last month my manufacturing expenses would be higher. For instance, as I stated to you, while waiting for the vessel to come in, I do not dock my men. I pay them off. That is quite a different thing where you can—

Q. I do not ask that question to apply to an extraordinary condition of things, such as you speak of, resulting from the detention of the vessel; but I mean on the average?—A. I think about that.

Q. You think it is more expensive?—A. It is more expensive than in New York.

Q. More expensive in San Francisco than in New York?—A. Yes, sir; where I pay \$2 to a common man you pay \$1.30 or \$1.25, which makes a difference. The labor and likewise the fuel you get here for about half price.

Q. What is the difference between the New York and San Francisco market as to the price of refined sugar, and which is the higher?—A. I think, if I am not mistaken, we have it at 6½ now; you have it at 6¾ now.

Q. You are talking about granulated sugar?—A. Yes, sir.

Q. Take the business during the period, say of the last two or three years, and how has it been?—A. It has generally been below the New York price, or even with it, just as the case may be.

Q. Have you within three years been above them at any time?—A. No, I do not think so. The American has been above them. I want you to understand that when I say in three years that the American had 7½ and New York had 6¾.

Q. Confine it to your own case.—A. My case was 6¾.

Q. In the last three years the price at which you have sold refined sugar has been below the New York market price ordinarily?—A. Ordinarily it has been either the same price or a little below. The shipping to the Missouri River, as it now is, costs us about 62 or 65 cents a hundred. The New York price is perhaps 30 cents, or may be less; I do not know. The freight, too, is against us.

Q. Now prior to, say, three years ago, how was the price?—We had a bigger price.

Q. Your price was better than the New York price?—A. Yes, sir.

Q. How long has this American refinery been running at its present capacity?—A. I suppose about two or two and a half years.

Q. Before that how large was it?—A. Perhaps it would run about 100,000 pounds a day.

Q. Do you use any beet sugar in your San Francisco refinery?—A. Not as yet. We will have some this year though. The beet raising was such that they never made a success of it. I will have between four or five thousand tons of it this year.

Q. Then you are about to engage in the beet culture and the manufacture of beet sugar?—A. Yes, sir.

Q. In what part of the country are your beets to be grown and your sugar to be made?—A. The beets will be grown on farms, and the factory must be where you grow the beets.

Q. Where is that?—A. In Santa Croix County; a little town called Watsonville.

Q. Santa Croix County, Cal.?—A. Yes, sir.

Q. Is this sugar that comes from the Sandwich Islands under our treaty grown upon plantations principally by the natives there?—A. Very few; I believe there is only one.

Q. Who are the owners of the plantation; of what nationality are they?—A. Well, there are Chinamen, Germans, Englishmen, Scotchmen, Portuguese, and so on—different nationalities.

Q. Is the Yankee represented there?—A. Yes, sir; we have some. I do not know what you would call me.

The CHAIRMAN. I guess you are a Yankee. [Laughter.]

The WITNESS. I think I have done more for that country than any living man.

Q. Have citizens from the United States gone there?—A. Yes, sir.

Q. What proportion of the persons now managing the plantations are Americans?—A. Let us go over the firms. Take my firm there. We have there, as I have already said, 35,000 to 40,000 tons. Now, we say the whole crop is 120,000 tons; it will not exceed that. Now, let us see the other firms. We have an English firm.

Q. Do you mean your firm?—A. Our firm is named Irwin & Co., and I have a bank there which is called Claus Spreckles & Co.

Q. That concern you say makes how much?—A. 35,000 or 40,000 tons from my own plantation and a plantation we have lent money on.

Q. What other Americans are there there?—A. Then you have a big firm there of Hackfeld & Co.; they are Germans entirely; they came from Bremen; it is an old firm there. Then you have an English firm there, Theodore Davis & Co.—purely English. Then you have a firm there of Waterhouse & Co., Englishmen. Then there is Cassell & Cook; a missionary went there and went into business with the Americans.

Q. Are they sugar planters now?—A. Yes, sir; and commission merchants. Then you find Brewer & Co.; they have one Scotchman in the firm.

Q. And the rest are Americans?—A. Yes, sir; Henry Carter is one of the firm, and Andrew Welsh, now president of the American refinery, is now in the firm, and there is in the firm Bishop and Jones; I think they constitute the firm; there are four of them.

Q. Do you know of any other American there, actual planters?—A. Yes, sir; I am speaking of these. Now, Cassell & Cook, for instance, are American planters. Theodore Davis, I do not think he is an American; but all the planters, I think, are Englishmen. The firm of Hackfeld & Co. may have some Americans.

Q. Have you any idea of the number of American who are engaged in the sugar-planting business there?—A. If you had asked me that question while I was in San Francisco I could have answered it; but I can not keep that information in my head.

Q. Can you get the information?—A. Yes, sir; there may be an almanac here that would give the information. Last year I gave the President and Mr. Bayard the whole history of that—last fall I stated the whole thing fully; what it was.

By Mr. BUCHANAN:

Q. We are here for the purpose of investigating at present this sugar trust that has been formed in New York. What information have you to impart to the committee upon that subject?—A. I don't know anything about it. They wanted me to become one of the trust, and I refused, and said no. That is all the information I have on that subject.

Q. Then upon the main subject that we are here to investigate you have absolutely no knowledge?—A. None whatever.

By Mr. WILSON:

Q. I do not know that I caught exactly your statement as to your purchase of the Hawaiian sugar. If I caught it correctly it is this, that you have a standing contract or agreement that you will take the sugar when it happens to arrive in San Francisco?—A. Yes, sir.

Q. At the same rates that Manilla sugar would bring, duty and charges paid, less half a cent a pound?—A. No, sir, not the Manilla;

on the Cuban basis. When I made the contract with them—I am sorry I did not bring the contracts with me, as I did not expect to be examined as to that—they thought if they run the sugar up a little higher they would do better by making a contract at half a cent off on the Cuban basis. One firm, Hackfeld & Co., would not sell on that basis. They would get the same money on the Manilla, duty paid. They did for a time get three-eighths of a cent better than the other planters on the basis of Manilla, but it soon changed around and went the other way again; so that they had the choice of what they wanted.

Q. Another thing I would like to ask is this: This sugar trust has been in operation for the last few months. During that time there has been an advance, as testified here, both in the raw and refined sugars, but not as much in the raw as in the refined sugars. Has that ruled in your part of the country as well as in New York?—A. It has not ruled in Manilla, because the Manilla market is generally ruled by England. Here they have their own way of buying. The combination will say that they are going to give so much for raw sugar and if you want to sell raw sugar you have to sell it at that price. It don't make a particle of difference whether it is more in Manilla or England. They have the power to buy it and so you must pay that much for it.

Q. My question related to whether the same rise in the price of both kinds of sugar has prevailed in San Francisco as in New York.—A. No, sir.

Q. Are raw sugars higher than they were six or eight months ago?—A. In San Francisco?

Q. Yes, sir.—A. Yes, sir; that is to say, Manilla. You are speaking about the island basis of what they buy here and what the Cuba price is. That would not affect the island sugar at all. The island sugar, with the duty added to it, or in fact whatever the centrifugal sugar 96 would bring in this market duty paid, when the refiner would buy from the importer and the importer pays that, would be the price in the island sugar, or what the price here was. If they squeeze down here they squeeze down there.

Q. Are not the prices of refined sugars higher to-day than they were in last December and some time previous to that?—A. They are higher.

Q. Have you any reason to believe that that has been brought about by the combination in the East?—A. There is nothing else. When you have competition unquestionably everybody wants to sell and to bring it down just as low as it can to make interest and expenses. It is always the supply and the demand, as I look at it. If they hold the market so that you want more refined sugar you have to pay what they want for it, if there is no competition. That is natural; it can not be otherwise.

Q. Then by remaining out of the trust you have reaped the same benefits as those who have gone into the trust?—A. That is correct.

By Mr. McKINNEY:

Q. Then the trust has been a good thing for you?—A. We do not know yet. I am going to start a refinery here. When they are fighting me there they may say, "We will undersell him and crush him out," and they may hold the sugar at 5 cents a pound. I will come here and start a factory, so that I will get my share here.

By Mr. CROUSE:

Q. There is no duty paid on sugars from the islands?—A. No, sir.

Q. How long has that arrangement existed?—A. Since 1876, when the treaty was made.

Q. What is the duty?—A. The duty on 96 is supposed to be 2½ cents a pound. You can find that all out. I do not keep it in my memory.

Q. But the sugars that come from the islands sell in this country at the same price that raw sugars do from other countries, duty paid?—

A. Yes, sir; the planters make that money.

Q. And the planters get that benefit?—A. Yes, sir.

Q. By what arrangement do they get that benefit?—A. Under the treaty with the United States that it comes in free.

Q. I want to know by what arrangement it comes about. Does the planter in that country get just as much for his sugars here as the other?—A. They could not get it if we did not want to give that price. Then they would ship it to New York, Boston, or Philadelphia. Undoubtedly they have more than one market here in America. They could not ship it to England.

Q. Is it not true that sugars shipped from the islands to New York would also come free?—A. Yes, sir; I say they can ship it here; therefore they get what the market price is; they get the duty, whatever that may be.

Q. Who is it that has made that arrangement whereby from that country they get just as much for sugars—in fact they get 2½ cents a pound more for sugar raised on the Hawaiian Islands than in any other foreign country, do they not?—A. The planter does; yes, sir. He receives so much more for his sugar on account of it coming in free of duty, whereas Manilla or Central America has to pay the duty. Cuban sugar has to pay duty. Hawaiian is admitted free.

Q. Now, if I understand you correctly, notwithstanding you are a sugar refiner, you are also a sugar grower?—A. Yes, sir.

Q. About one-third of what is grown on the island?—A. Yes, sir; that is to say I have there, not alone, but I have people interested with me in a stock company.

Q. Are there any other American refiners that are interested in the production of raw sugars on the island?—A. The planters have the other American refinery.

Q. The planters have 80,000 tons and your company has 40,000 tons, and that is the entire crop?—A. Yes, sir.

Q. So that the sugar refiners of the United States are the sugar growers on the Hawaiian Islands, and they get 2½ cents a pound more for their sugar than for sugar grown in any other country?—A. No, sir; but some of the planters on the islands are interested in sugar refineries in San Francisco.

The CHAIRMAN. Mr. Hermann, who is present, would like to ask a few questions. He is not a member of this committee. In the earlier stages of these proceedings a certain portion of this work was assigned to certain gentlemen, and that particular business on the Pacific coast was assigned to Mr. Hermann.

By Mr. HERMANN:

Q. What is the surplus now on the Pacific coast after the demand has been satisfied by the supply? I am just taking your market west of the Missouri River, including the Pacific coast?—A. That would take more than we manufacture there.

Q. Then your entire output is exhausted?—A. Yes, sir.

Q. How does that correspond with the American refineries there?—A. I include them likewise.

Q. So, then, I understand you to say that the entire output, the entire production of all the refineries on the Pacific coast, is consumed by the demand of that coast?—A. Yes, sir.

Q. The following is a dispatch which was recently received from San Francisco by the New York World:

SAN FRANCISCO, March 21.

The American Sugar Refinery, now a member of the New York Trust, has secured a market at the East for its surplus. The company has chartered the ship *Arabia*, at a reported rate of \$4 the short ton, to load a cargo of raw sugar for New York. She will load at once, and as she is quite a large vessel, registering 2,024 tons, will be able to take away about 300 tons of the expected surplus of 60,000 tons. Other ships will follow the *Arabia*.

Is there any foundation for this statement?—A. I do not understand that. It says 60,000 tons; is that so?

Q. Yes, sir; that is claimed to be the expected surplus?—A. I do not know. I do not think they would ship away 60,000 tons and only have 20,000 tons. That is more than I am aware of.

Q. Now I understand you to say that there is substantially no difference between the prices prevailing on the Pacific coast and those prevailing in New York for like grades of sugar?—A. No, sir.

Q. You have, I understand, undertaken to give reasons why sugars are cheaper, or as cheap, on the Pacific coast as on the Atlantic?—A. The reason is that there is greater competition.

Q. As I understand, you have also given, as an additional reason, the increased cost in the matter of labor, material for barreling, etc.?—A. Yes, sir; the cost is more.

Q. The trust combinations claim that you are more highly favored—referring now to the sugar refiners of the Pacific coast, not to yourself individually—by reason of certain combinations with the Pacific railroads, and that owing to the discrimination in your favor they are shut out from competition west of the Missouri River?—A. We pay, by the hundred pounds, either 62 or 65 cents to the Missouri River. I do not think they pay over 30 or 35 cents. I am sure they only pay half of what we pay on the railroads. There is no shut out about that. We are the ones that are shut out. The boot is on the other leg.

Q. Have sugars, as a whole, within your territory, been any higher for the months since last October than for corresponding months in previous years?—A. I can not answer that very well. I have been in Europe; started in May and came back in October. I could not very well answer that. Those details I did not look over. If I had known you wanted them I would have had them written out.

Q. It is claimed that by reason of the trust combinations in the East sugars have perceptibly advanced in price. Would this, if true, not have a corresponding effect within your territory?—A. That would be, provided the trust would say, "We are going on the Pacific coast and we do not care what it costs us there to bring the sugar down to a cent a pound. Here in the Eastern States we can control our market, and make it up there." That may be their idea. Of course I can not tell. If they have the sugar higher here undoubtedly the sugar will be higher in San Francisco and the Territories. But where they have their American refineries what will they do with that sugar? Will they give me that market, or will they try to force me out of it? That is the question. I do not know, and I do not care.

Q. The purpose of this investigation is based upon the idea that these trust combinations are injurious to the interests of the great mass of people who consume sugars, and the object of the investigation is to ascertain whether the tendency of these combinations is in this direction. Now, I desire to ask you whether it is not true, in your opinion and from your observations as a competitor with these combinations, that as a matter of fact their effect has been to produce competition, and in pro-

ducing competition to lessen the price of sugar instead of producing an opposite effect?—A. I do not agree with you there; I do not think so.

Q. Did I not understand you, in your previous testimony, to express the opinion that such was the effect as you have experienced it on the Pacific coast?—A. Do you mean by competition?

Q. Yes, sir.—A. We have experienced that.

Q. Will not such combinations and the contest which will follow have the effect in the future to cheapen the prices of refined sugars and so benefit the consumers?—A. I do not think so; it will be higher, in my opinion. They ain't going for the trust. They will not work for the people.

Q. Will not this be the effect, that you gentlemen, who are now testing your strength in the competition, will be either driven from the market or will be merged within the trust combinations?—A. I do not think I will ever be merged in the combination. These gentlemen know something about it. If they are going to form a trust, of course only one or two men will rule it. How about all the stock in there? They virtually hold that stock, and they would not acknowledge that Spreckels or anybody else has anything to say. You give all your property, say, to one or two men. I came to this country from Germany for liberty, and liberty I shall maintain. (Applause.)

Q. You consider, then, as I understand, that the so-called sugar trust is an injury to the consumer rather than a benefit, even at the present time?—A. That is what I believe.

Q. It is stated, and you also, I understand, have stated, that you are proposing the erection of a refinery in the Atlantic States in opposition to the so-called trust?—A. Yes, sir.

Q. Now, if you do, and the other refiners not at present in the trust join you in the combination to fight the trust, there will be one combination fighting the other, will there not?—A. Yes, sir; but then, perhaps, there will not be any fighting to speak of. The trust will have to take care of it. They have enough on their shoulders; but when they get more powerful and can make some \$15,000,000 or \$20,000,000 more, in a year or two I do not know what they will do. So I want to make myself felt. I do not know what they are going to say. They may put sugar at 5 cents and run Spreckels out. I am not going into the trust. I am coming here. If they make money here I will likewise; so I will balance it; that is my idea.

Q. If this combination becomes powerful in the near future, as it has in the past, aggregating to itself more than two-thirds of the sugar refineries of the United States, will this not in the end drive you, the weaker, from the market if you don't unite in the trust combination?—A. Very likely, it may be; but I do not think so. It would not drive me from it. I have another source to depend upon, what I have commenced and what I will go on with. We are going to raise our own sugar here in America, and this is about the time to do it.

Q. Do you not understand it to be one of the leading principles in the organization and in the development and aggregation of these trust combinations to drive out all competition, or to compel competitors to unite with them at their own price and figures?—A. I think that is so; I can not say personally; I do not know, because I have not known the inside of what they are going to do.

Q. You have said that sugar is to be cheaper, or as cheap on the Pacific coast as on the Atlantic?—A. It is cheaper.

Q. Should this trust combination grow in the future as they have in the near past, will they not in the end monopolize the markets of the

Pacific coast so as to make that market entirely tributary to their own price and commands?—A. There is no question in my mind but that they would do it.

Q. If you have the figures at your command, what is the percentage per year increase in the gross consumption of sugar in the United States?—A. I think from 10 to 12 per cent.

Q. About what is the number of employes in the sugar industry of the United States?—A. I have no idea.

Q. About what is the gross production of sugars in the United States?—A. You mean what is raised here, or the production of refined?

Q. Of the raw material?—A. I should judge from 130,000 to 150,000 tons. Of course I am not so familiar with it; it may be that amount.

Q. State the price of skilled and unskilled labor, if you know, of the refineries in Europe and for the same classes in America, in order that a comparison may be had.—A. I think the skilled labor would not equalize it in Europe and America.

By Mr. McKINNEY:

Q. Do you mean to say the wages of employes would average in Europe what they are here?—A. The comparison, I think, is one-third of what they are here in America.

Q. They are two thirds greater here than in Europe?—A. Yes, sir; about two-thirds greater here; over half, I am sure.

By Mr. HERMANN:

Q. If the differences in labor were equalized, would it be possible for you as a refiner to compete in your production with the refineries of Europe, taking into account the present existing duties upon foreign sugars?—A. If the labor and the fuel and everything else were equalized we could uphold with any nation, I do not care who they are.

Q. Despite the present existing tariff rates?—A. Say, for instance, we had sugar at 3 and the tariff taken off, we could compete if we had the labor and the fuel; the American people could compete with any nation.

Q. The trust combination is reported to have said that you proposed, or endeavored to propose, to Congress the enactment of a law making sugar free. Is it true, or has it any foundation in fact?—A. I have not stated anything about it. I say if you take off the duty, you must protect—excuse me for using that strong term—you must protect the home industry. Louisiana I do not think could live if you took the duty off. It would be her ruination. It would not be justice to the people to take the duty off and to take that trade away from Louisiana. If I go into a beet factory, where we have to pay more for labor and fuel, there must be some protection. We can not uphold against Germany, with 1,000,000 of tons raised there, and 600,000 tons exported, where the labor is very cheap, and the same with the fuel.

Q. Would not the removal of the duties from foreign sugars give to the trust combination such an advantage as that it would be difficult if not impossible for you to further compete with them?—A. If you would take the duty away they would not have any more advantage than I would have. There are 35,000 to 40,000 tons that I am interested in on the plantation. You can have the 2 cents or 2½ cents, and you see what you take away from me. But I say, amen; take it, gentlemen; I don't care. I go on the other lay-out over here, and raise beets and make my own sugar. What I do not make in one I make in the other.

Q. These trust combinations are also reporting that the object of your stating it to be your intention of building an Atlantic refinery is a mere pretext, and that it is to secure from the trust the abandonment of their intention of invading your sugar territory. Is that so?—A. No, sir. You will see there has been some talk in the papers, but it is only bluff. You will see what I do before I am through. I think it will be found out that something is done. I am not bluffing, but when they bluff I make them show their hands.

Q. You have referred to the great future which is before the sugar consumers in the matter of the beet-sugar production; will you have the kindness to state to the committee about what proportion of the present consumption of sugar in the United States the beet-sugar production in the course of a short time, if properly encouraged, would represent?—A. If we were sure that we would have a certain protection there would be no question in my mind that, say, in eight or ten years we would raise all the sugar that America would consume. You can raise beets anywhere. I really don't know whether you can raise them in Louisiana. The climate is such that the beet will not ripen, in my opinion. I have no knowledge on that subject. But take the West, and I am sure it will be a success. Now, I have made a contract with one hundred and sixty-three farmers for raising beets for this factory. The seed is there. I have sent 25 tons of seed, and the machinery is on its way. I will not lose a year's time in sending that machinery by sail, but I have shipped it by steamer and rail. If I did not do that I would lose one more year of my life in seeing the beet growing. I have started it in, and the foundation of the building was going on when I left. The plant can run through 250 tons of beets in twenty-four hours. The factory is built double the size. One side will be left empty to put in double the quantity. So the following year I will run 70,000 tons of beets, which will make 10,000 tons of sugar. Now that is a little different thing from getting 1,000 tons a year. That don't amount to anything.

Q. The Agricultural Department of the Government up to within the last year or so had almost despaired of making a success of the production of beet sugar?—A. Yes, sir.

Q. But recently new appliances have been discovered which will lead in the direction of success. Do you understand this to be a fact as to your own experience?—A. Yes, sir; there is a patent called the Steffens process. That patent was purchased by Ull & Co., and I have purchased that patent for the United States. That patent is very simple, and I will explain it to you. Cane sugar has about 1 per cent. of salts, and the balance is gum, or molasses, or sirup, whichever you may prefer. The beet has only the cane sugar and salts of potash. So when you have number 1 or 2, after going through this process you have what we call molasses in common terms, which is this sugar and these salts. Now, that is put in connection with lime, and water is used to keep it cool. Now you have it in the vats; then put through a press with faucets, and the faucets are open, and you see a liquid run off which is the salt of potash. Now you have a solid cake of what we call sugar of lime. In that sugar of lime is 99 pure. You lose 10 per cent. of what goes away. Of course you can not save everything. If you have 100 pounds in there you get out of it 90. Then that is used again with the liquid of the beet. After you have gone through the diffusion tanks to clarify you use this lime again to purify it, and you put it through the press again and open your faucet, and the liquor of sugar will run out, and you then have a solid cake of lime.

Q. What proportion of the area of California do you consider from your investigation as suitable for the growth of the sugar beet?—A. I think you can raise a million tons. You can perhaps in Ohio raise a million tons. I don't know how much you can raise in Kansas. You can raise enough sugar here to supply the world.

Q. And in the end do I understand you to say as a superior article it will take the place of these imported sugars?—A. As I say, the beet sugar is nothing but cane sugar and salt; has no molasses. If you give it to a chemist, he can not tell you which is beet and which is cane.

Q. The people of my own State have been hoping that you would establish your enterprise there. I will ask you from your investigation if you find that State to be as well adapted for the growth of the sugar beet as California?—A. I do not see any difference, although I have not been there. I have some friends there, and I hear a great deal from them as to Oregon and Washington Territory, which they say is very good.

Q. If the reciprocity treaty under which we are now governed should be abrogated, what effect would it have upon your industry, or upon the sugar refining industry of the United States?—A. Nothing at all, as a refiner.

Q. Would you not be compelled to impose an additional duty upon your customers which would be imposed by the abrogation of the treaty?—A. We have no benefit from the treaty; the people have no benefit from the treaty.

Q. Then I understand that the difference between duty and no duty goes entirely to the planter?—A. That is it.

Q. And not to the refiner?—A. That is so; as a planter, I gain; as a refiner, I do not.

Q. Your prices and those of the American refiner are always the same; or is there any difference upon the same grade of sugar?—A. There is, for instance, a big firm of Allen & Lewis which has existed since I have had a refinery. The American refinery made a contract with them by which they sold to them one-eighth of a cent less. I said, Go on, take it, it won't last long. There was a lawsuit, and they didn't want to sell it any more.

Q. In conclusion, and looking to this subject from the stand-point of the consumer, and not from the independent refiner—by "independent" I mean those who are not in the trust combination—would it not be to the benefit of the consumer to allow this trust combination to exist; and would it not be rather the policy of this Congress not to enforce the power they have of destroying these trust combinations or preventing their further existence?—A. That is a hard question to answer.

By Mr. BUCHANAN :

Q. You say you were asked to go into this trust. By whom were you so requested?—A. I was requested to go into the trust by Mr. Searles.

Q. John E. Searles?—A. Yes, sir.

Q. Did he see you personally?—A. Yes, sir.

Q. What inducements, if any, did he place before you to have you go into the trust; what advantage did he state it would be?—A. We had but very few words to say about it. He was at the Hoffman House, New York.

Q. Did he state any advantage would accrue to you by your joining this combination?—A. Yes; there was something said, but I don't know what it was. I was not well. I had been under the weather in New York and had been quite a sick man. He was there twice.

Q. How recently has he been there; how recently have you seen him there?—A. I think about three or four days before I came to Washington.

Q. That would be about five days ago?—A. Five or six days ago, I think.

Q. You do not remember what particular inducement he stated?—A. Not particularly, only he said when you are in the trust you are in the trust. That is all I know about it. I asked him what benefit it would be to me. He said when you are in the trust, you are in the trust and you can not get out. [Laughter.]

Q. You immediately declined the proposition?—A. Yes, sir.

By Mr. HERMANN:

Q. It will be very interesting news to the sugar consumers of this nation to know if you are willing to state about when and where and what portion of the nation your contemplated refinery is to be established.—A. I will visit from this city Baltimore, to see what facilities are there. I will go back to Philadelphia, and very likely establish myself there. I am not positive about that, of course. I have looked at some property in New York, so I have not decided which place I will select.

Q. Philadelphia I understand to be the seat of one or more independent sugar refineries?—A. There are two there, yes, sir; Mr. Knight and Harrison & Fraser.

Q. Do you contemplate associating directly or indirectly with any of the existing refineries of that city?—A. I do not know yet. Mr. Knight's refinery can be bought. I have corresponded with the old gentleman, and I have been there with him. Mr. Knight is an old man. They wanted him to go into the trust. He said, No you can buy the refinery for coin; and that, I think, the trust refused.

Q. I understand that these Philadelphia refineries aggregate from \$30,000,000 to \$40,000,000 capital in their business, and that their output constitutes a large proportion of the refined sugars of the United States. I will ask you if you expect the plans which you are now contemplating to successfully compete in the output as well as in the competition of the price of those refineries?—A. I think I can; I believe I can.

Q. From what market do you purpose procuring the raw sugar for your refinery?

The WITNESS. You mean here?

Mr. HERMANN. Yes, sir.

A. We would take it from Cuba, from the Phillipine Islands, and from Manilla; from the same source that the refinery is drawing from now.

By Mr. BUCHANAN:

Q. On land of ordinary fertility, what number of tons of beets is the average yield?—A. It depends entirely upon the soil. In California they raise as much as 42 tons to the acre.

Q. Tell us what soil is generally exceptional?—A. We will find out how this will be. Now, if you have soil rich, you want the rows about 12 inches apart and the beets about 6 inches apart. A pound beet would give 42 tons, if they only weigh 1 pound. Now, if the soil is not as rich, you want to sow 12 by 8, so your 1-pound beet would give 22 tons.

Q. What is the probable average price to the raiser of the beet per ton for the beet?—A. Four dollars.

Q. Four dollars per ton?—A. Yes, sir.

Q. Then the producer of the beet would receive, if he raised 20 tons per acre, \$80?—A. Yes, sir; the pulp is worth two-thirds of the beet after the sugar is taken out. We don't take the albumen out; we only take out the sugar and salt. What is left is good feed for cattle.

Q. Mr. Havemeyer testified here that beet-root-sugar was very refractory in refining, because of the presence of these salts that you speak of. Is that your experience as a refiner?—A. The beet sugar is a great deal easier refined than the cane sugar, but they do not get the best sugar here; they take the lowest molasses sugar with the salt in it; it goes from 16 Dutch standard.

Q. The best quality of the cane sugar is refractory, whereas the beet-root sugar you produce is not refractory?—A. Of course not. In England they pay more for the beet-root sugar than for the cane sugar. It is so easily refined; for instance, it is very easily refined with charcoal.

By Mr. HERMANN:

Q. How is it with regard to the German bounty paid by the German Government to the beet-sugar producers? Will not that, to a certain extent, meet with healthy competition anywhere in the United States?—A. No, sir; you see we have the duty. Now I am perfectly satisfied to make it a success, but if you want to take the duty off and give a bounty, give the people a chance to go ahead. I am only one individual out of 65,000,000. As I say, I am willing to do all I can, if you will help me; but it is impossible to have one man do everything.

Q. When does that German bounty expire?—A. They get one-quarter of a cent a hundred.

Q. Is not there a limitation in time when that bounty is to cease?—A. Oh, no. When they first gave them this bounty they only made 6 or 7 per cent. of sugar; last year they made 14 per cent. of sugar. Gentlemen say you can not get over 10 per cent. in cane sugar; beet sugar has gone to 14 per cent.; they have to grade the seed the same as a man would grade his cattle—pick out the very best.

By Mr. CROUSE:

Q. Is a protective tariff very essential, reasonably so, to this industry that you are talking about?—A. It would not make any difference to me; the only thing you take from me is \$1,500,000.

Q. I am speaking now of beet-root sugar only; is a protective tariff necessary to start this industry in this country?—A. You have either to keep the tariff or give a bounty, and if you can not do that you have to do something else.

Q. If the duty on sugar should be removed, what effect would that have?—A. Then we could not live; we would have to give it up.

Q. I am speaking of beet sugar only?—A. We would have to give it up; we would have to have the bounty or duty.

By Mr. BUCHANAN:

Q. I understood you to say something about a bounty paid by the German Government to the manufacturers of sugar; I want to ask you whether that bounty is paid to the manufacturer in the first instance or to the farmer?—A. To the manufacturer.

Q. Do you know how much it is?—A. I have the data here, but I haven't it in my mind.

Q. Can you approximate it?—A. I will tell you how that is. Two-thirds of the beet factories belong to the farmers individually. They are rich. Now, they get together and form a stock company, according

as they raise an acre of beets. They build a factory and go to the banker and borrow money. They start the plant, and accordingly as they bring the beet to the factory they get for so many acres so much stock. You can not get a share of stock from that company for love or money.

Q. You are speaking of the German raisers?—A. Yes, sir; they ought to do it here if they can get enough capital. In the beet raising they have made as much as 100 per cent. profit in one year—from 60 to 80; but of course you know raw sugar then was $7\frac{1}{2}$ cents per pound. Of course it depends entirely upon the price of sugar.

By Mr. HERMANN:

Q. This bounty which you speak of paid by the German Government is paid for the exported sugar?—A. Yes, sir; but it comes in the same category—

Q. Answer the question. I want the fact; what they pay bounty on is the sugar exported, so much a pound?—A. Yes, sir.

By Mr. BRECKINRIDGE:

Q. What do you estimate to be the present population of California?—A. I suppose about one and a half millions; I do not know, really.

Q. The State is growing rapidly, is it not?—A. Yes, sir.

Q. I believe your Pacific coast is increasing very rapidly in population?—A. Yes, sir.

Q. Have you any idea of the present population of Oregon or Washington Territory?—A. I have not; they are increasing likewise.

Q. But all three, California, Oregon, and Washington Territory, have increased very much since the census of 1880?—A. Yes, sir; very much.

Q. You get your raw sugars on the Pacific coast from what source, the Hawaiian Islands?—A. Yes, sir; Manila and Central America.

Q. These are your three points?—A. Yes, sir; we have in certain years received some from Batavia, but we have not lately.

Q. Is the fruit-preserving industry a very extensive one in your State now?—A. Very extensive.

Q. What kind of fruits do they preserve principally?—A. All kinds; peaches, pears, cherries; almost all kinds of fruits.

Q. Is the jam industry an extensive one there?—A. I think it is; but of course I couldn't answer that question as to that exactly.

Q. I am told that in England the jam industry is a larger industry than sugar refining. Do you know whether that is true or not?—A. I could not say that.

Q. Is sugar used very extensively in the fruit-preserving industry of this country?—A. Very much; yes, sir.

Q. What kind of packages are used in shipping your fruits?—A. They are generally tin cans made from tin-plates.

Q. Do you use glass?—A. Not a great deal; the most is thin tin-plate.

Q. So, what may be called the raw material of your fruit-growers and preserving establishments consists of fruit, tin-plate, and sugar?—A. Yes, sir.

Q. Do these countries from which you get raw sugar produce more sugar than you need on the Pacific coast?—A. Do you mean the Philippine Islands, or just mean Hawaii.

Q. I mean those that are in a convenient shipping attitude to you.—A. They produce more.

Q. Some of them do not send all of their sugar to you?—A. Oh, no; we don't get half from Manila; about one-third.

Q. What do you estimate to be the consumption of raw sugars on the Pacific coast?—A. There are perhaps 60,000 to 70,000 tons, about 140,000,000 pounds.

Q. Is that all the raw sugar you refine out there?—A. Well, perhaps about 120,000 tons; there has been no more, I think, refined.

Q. That is about the extent of the refining of raw sugar on that coast?—A. Yes, sir.

Q. There is no refined sugar consumed out there except that which is refined on the coast.—A. No; it is all refined there.

Q. You speak of the refineries getting no benefit from the introduction of Hawaiian sugars, unless it chanced to be the planters alone; and you speak of the consumer getting no benefit. If all the sugars that are tributary to the Pacific coast were made free, what would be the effect then as regards the consumer in this country?—A. The effect would be this: If there was enough free sugar coming in there it would be cheaper; but the other way, if you had not enough of that sugar and had to go to Manila and pay duty on sugar, of course it would not make any difference.

Q. In other words, I understand you to say that if sugar is introduced to an extent less than the demand of the country, so that some dutiable sugar will still be imported, the benefit would not accrue to the consumer of this country?—A. If you had 13 sugar, and would take the duty off, the sugar would undoubtedly be very cheap.

Q. To whom?—A. The consumer; it could not be otherwise. You would have to pay 2 cents a pound less for the sugar with the duty off than with the duty on.

Q. The reason, then, that the consumer in this country does not get the benefit of the remission of duty on Hawaiian sugar is that the duty is not remitted on enough sugar to supply the market?—A. Yes, sir; the consumer don't get a bit of benefit of that; it is just the planter.

Q. The Hawaiian planter is in the same attitude as the Louisiana planter?—A. Yes, sir.

Q. If the Hawaiian planter, however, produced a great deal more sugar than we needed in this country he would not get any benefit?—A. That is correct.

Q. Then my statement is correct?—A. Yes, sir.

Q. I was astonished that there could be any doubt on this point.—A. There is no question about it.

Q. How many refineries have you on the Pacific coast?—A. There are now two in working order.

Q. Are they competitors of each other?—A. Yes, sir.

Q. Can sugar be raised more cheaply in Hawaii than in Louisiana?—A. I have no idea what it will cost in Louisiana to raise sugar.

Q. Is it very profitable in Hawaii?—A. In certain plantations it is not, and in others it is; one is successful and the other is not successful. I had a manager and a big plantation, and it has already saved me over \$100,000 in labor; that is, the management.

Q. A well-managed plantation in Hawaii is very profitable?—A. Yes, sir.

Q. How often do you have to replant your cane in Hawaii?—A. In some places they plant perhaps between two and three years; in others only one year; it depends upon how the water question is—in fact not over three years in any one place. They take one ratoon and find it profitable to plant again for the reason that they take the same water and use it on the plantation.

Q. Do you have to irrigate?—A. Yes, sir; but not entirely.

Q. Do you have to replant oftener than they do in Cuba?—A. Yes, sir; I think Cuba can raise the cheapest cane as I understand. We have to replant.

Q. How much raw sugar can be generally produced to the acre in Hawaii on a good plantation?—A. The average would be, say, from 4½ to 5 tons an acre.

Q. How much in Louisiana?—A. I don't know. I suppose about a ton and a half. They know more about it than I do. They average it, you may say, from 5 to 6 tons. The cane growing there is about fifteen months; you know we have cane there 22 feet high.

Q. Do you get more than one crop off of it?—A. In Louisiana they take a crop off every year. We have to raise it fifteen and sixteen months. They have no frost there.

Q. You can keep a larger per cent. of land in Hawaii yielding than in Louisiana. You have to replant every three years?—A. Yes, sir; the cane will grow about fifteen months. Now the planters calculate to get through with the grinding, say, in June. They will then commence planting, and some plant in April. In some localities if you plant before June it will tassel or flower. So you have to plant later there. In September the cane flowers or tassels. I, November the cane is ripe and will not grow more of any consequence. When it is in good condition it has a kind of horn jumping out. Your cane is then ripe. In some plantations they can plant in April or May. In others you have to wait until June before you start in, and in November you have a little flower on the cane.

Q. You get about three crops from each planting?—A. About two, and some three, of course.

Q. So that you only have to replant from one-third to one-quarter of your ground each year?—A. Yes, sir.

Q. Do you know how much raw sugar they can get off of an acre of good ground in Cuba?—A. I have no personal knowledge of that. As a general thing there, I think, about three and a half or four tons; I do not know exactly; that is only guess-work.

Q. Speaking of the sugar beet, what per cent. of sugar is there in a ton of beets?—A. I have examined the beet from the Santa Marie where they are planting on their own account, and 6 tons of beet would make a good ton of sugar. They had 18 per cent. of saccharine and the purity was 93 $\frac{3}{10}$.

Q. It had 18 per cent. of saccharine matter?—A. Yes, sir; by the polariscope.

Q. Would you consider that an average test?—A. If that be the case that it had 18 per cent. of saccharine and was 93 pure, it would show a difference as I figure now; but whether the beet be all that way, I do not think we could average 18 per cent.

Q. You can not generally depend on that?—A. No, sir; when I make my figures, I make them very low. It is a great deal better; in the end you have more sugar.

Q. Your mode of cultivating sugar in Hawaii is substantially the same as in this country—mules, plows, etc?—A. Yes, sir; I have in that country three steam plows, plowing land all the time. Then we have a mold-board plow to scoop out and plant your cane. Then we have to irrigate the land.

Q. What do you pay for a plow-hand—a man that can use two mules?—A. In the island we generally give him \$30 and \$35 a month and board.

Q. Are most of your plow-men white men?—A. They are all white men.

Q. Are most of the field laborers in the island white people?—A. They are natives—Chinese, Portuguese, and Japanese.

Q. What is paid to the Chinese?—A. They don't plow; they only go in and irrigate.

Q. They only do the lighter work?—A. Yes, sir.

Q. What other nationality besides the American plows?—A. White people entirely.

The WITNESS. You mean the nationality?

Q. Yes.—A. Mostly American.

Q. Then pretty much all the plowmen are American?—A. Yes; of course there are foreigners amongst them, Swedes, Spaniards, etc.

Q. But all belong to the Caucasian race?—A. Yes, sir.

Q. So that the plowmen of that country are nearly all of the white race?—A. Yes, sir; and of the common laboring people there will be gangs of perhaps thirty or forty going into the cane-field who will have to irrigate and look after and strip the cane. A man having a gang of this sort under him is always a white man.

Q. Of what are these gangs composed?—A. Chinese, Japanese, and Portuguese.

Q. What pay do you give these Chinese and Japanese?—A. Sometimes we have to pay them on the scale of \$28 a month and board themselves; sometimes \$18 a month, as the case may be. In the case of the Japanese, the Hawaiian Government made an arrangement—made a treaty with them, in which it was agreed that the Hawaiian Government should pay their passage over. The contract is, I believe, \$14 for a man and \$12 for a woman, that they pay for them. That is a three years' contract. Then the Government has contracted to deliver them over again to the Japanese Government, but the Government must save \$4 each month for each man and keep it for him and ship it to his family, so that he can not spend it all.

Q. Is that sort of provision also made for Chinamen?—A. No, sir.

Q. The Japanese are more likely to spend all they earn than the Chinese?—A. Yes, sir; I believe so; that is more their disposition. The Chinese sent a man over to make a treaty with the Hawaiian Government, which I opposed, and of course it did not go into effect, because I thought it would be very dangerous, for the Chinese might very easily overrun us, and might have the island. You see they are very quick fellows. They keep together, and they have their societies. You talk about the white men wanting more wages, but they are just as quick about that; they know how to do it.

Q. They have learned the art of striking, have they?—A. Yés; they know what they are about.

Q. With what crop will the planting of sugar beet compare, to give a general idea of the labor and difficulties which are involved; for instance, how does it compare with planting, cultivating, and gathering the corn crop?—A. It would be about the same.

Q. It would be about as much expense and trouble to plant and gather a sugar-beet crop as to plant and gather a corn crop?—A. I should judge it would be about the same. Now, in California they will plant the beet in the latter part of March when there is hardly any more rain to come, and no weeds coming up. They will just run through with the cultivator once. The only trouble is when they have to thin them. You ought to have them about 6 inches apart, and thin them out in the row. That is the greatest trouble there is.

Q. Just like thinning out corn ; you can either do it with the hand or the hoe?—A. Yes, sir.

Q. That thinning out labor is labor that can be done largely by the lighter farm force?—A. Each family cultivates a certain number of acres. Some families only have 10 acres and make a good living out of it ; some have 5 acres, some 15 acres, some 20 acres. Now, the whole household, including children, can help them in doing that.

Q. In refining sugar you estimate that with your high cost of labor and coal it will run some 60 or 70 cents a hundred to cover costs and make it profitable?—A. You mean 6 or 7 cents a pound.

Q. No ; I mean 60 and 70 cents per hundred. You made an answer to the chairman on that point, as to the cost of refining sugars upon the Pacific coast.—A. You are coming to the refinery now.

Q. Yes ; with your expenses out there you can not convert raw sugars into refined sugars short of some 60 or 70 cents per hundred ; will it cost any more to convert beets into refined sugar than it will cane sugar?—A. No, sir ; it is easier.

Q. Therefore, when it comes to treating both as raw material, is it about as favorable as cane?—A. Yes ; I would rather have beet sugar to refine.

Q. Mr. Spreckles, there are a good many statements made about the German, the Austrian, and the French policy of giving bounties upon exports of sugar ; they make a payment for each ton of refined sugar that is exported, I believe?—A. Raw sugar likewise ; raw and refined beet sugars.

Q. Upon all sugar exported?—A. Yes.

Q. Take the German nation, for instance ; I suppose you are most familiar possibly with that, it being your native country, and it is considered, I believe, to be a model for this policy ; they have an internal tax upon the sugar beet, I believe?—A. Yes, sir.

Q. What is the amount of their tax per ton expressed in American money?—A. I have not paid sufficient attention to that to give you an exact answer what it is per ton. The beet is weighed there by the Government and they pay the internal taxes on that.

Q. In speaking of a ton of the sugar beet, do you mean a long ton or a short ton?—A. I mean a short ton.

Q. Both of the beet and of the refined sugar?—A. I mean short tons.

Q. Do you remember what is the bounty that the Government pays upon the sugar that is exported?—A. I could not tell you.

Q. You do not know whether it is in excess or whether it is less than the internal taxes that have been previously charged?—A. I could not answer you that exactly. I have the new tariff with me, too, but I have not looked into it carefully.

Q. You are not certain, then, whether the producer of the sugar beet is helped more than he is hurt by that?—A. Oh, he gets more bounty than he pays.

Q. If so, how much?—A. I do not know.

Q. How do you know he gets more?—A. I am pretty sure he does.

Q. Are you sure it is not a source of Government revenue rather than an expense?—A. No ; they have paid many millions to the Treasury, but they receive more from it than they pay in. One year they got about eight millions.

Q. Do you remember also how much the Government collected, on the other hand, as charged upon the beet?—A. I do not know ; something less than eight millions.

Q. That is the excess paid in marks over the marks that were collected by the direct internal tax?—A. Yes, sir.

Q. You speak of the imported sugars always being kept below No. 13 Dutch standard in color?—A. Yes, sir.

Q. I infer from that that a good many grades would come in considerably fairer in color than No. 13 if it were not for the duty?—A. That is right.

Q. If they come in below No. 13 they are considered, I suppose, unfit for consumption?—A. Yes, sir.

Q. Unpopular, at least; not much affected by the people?—A. Yes, sir.

Q. If they had been permitted to come in of a fairer grade they would have been fit for consumption?—A. Yes, sir; that is, cane sugar, not beet.

Q. I am speaking of cane sugar.—A. Yes, sir.

Q. Now when that sugar is debased or changed to a lower or darker hue and the refiners of this country get it, they proceed to produce a fairer color again, do they not?—A. Yes, sir.

Q. The refiner proceeds, then, out of this dark sugar, to produce to a large extent the very color that it was before it left home?—A. It would be better in color, because raw sugar would not be the color of refined; it would be quite different.

Q. I know that, but it would be near the color it was before it was discolored?—A. They have in former years, I understand, given this color to sugar and sent it over to New York and then washed it. The test was then simply by color. Now it is by color and by the polariscope, and you know just how it is; whether it is correct.

Q. I understand you, then, that the way in which sugar is fixed at a color that enables it to come in below No. 13 is, that when the juice of the cane is treated they just refuse to make a brighter color than No. 13?—A. Yes; that is it.

Q. Have they facilities in Cuba, in the Hawaiian Islands, the Philippine Islands, or Central America, for refining sugar on the plantation to as high a degree, upon the average, as they do in Louisiana in their sugar-houses?—A. I do not think so. I think in Manilla, where they have very dark sugars, they are doing a great deal in sun-drying and in molds. That is not the centrifugal process. By the centrifugal process you can get it white with water and charcoal.

Q. Then, if they are treating sugar on the plantation and bringing it to No. 9 or 10, instead of continuing their treatment up to Nos. 16, 17, 18, and 20, they find it cheaper just to stop at that dark color, ship it to this country, and treat it afresh, and bring it up to these yellows that we use?—A. Well, when we speak of Manilla sugars they could not improve in color. Their process is not a centrifugal process.

Q. Come to the centrifugal process.—A. The centrifugal process is one that can only be done in the pan. If they have the first use and clarify well there will be a very good sugar produced. As for the crystalline, like this No. 18, it is not the nature of this kind of sugar to become white, yet you could make a white sugar out of it by just using water and by washing away the dark sugar, but I do not think there would be much profit in that.

Q. Which is the most expensive sugar for you to produce out of your refinery?

The WITNESS. You mean which costs us the most to refine?

Q. Yes.—A. The lowest grade. The higher grade does not cost so much to refine, and it has already the bleaching.

Q. Suppose you are working with No. 12 or No. 13 sugars and you turn out, say, No. 18?—A. That would be cheapest sugar to refine. You can refine that grade cheaper than the other.

Q. Suppose you produce No. 20, and granulated, and cubes. How much would you consider that No. 20 costs you more—what per cent. would you consider that No. 20 costs more than No. 18 to manufacture?—A. There would be very little difference between No. 18 and No. 20.

Q. How much between No. 18 and the granulated sugar?—A. Granulated? Of course you do not want to put that through the refinery.

Q. No, you are putting only No. 13. You are beginning on a raw sugar and producing various grades of sugars, and you are producing cubes. Cubes I believe are about your highest production?—A. No. 20 is about the same as the cubes. All that sugar is just the same, except they have what they call an A sugar, which may be a little yellower.

Q. Very well; when you are producing those dark sugars into these refined grades, your least expense would be in the No. 16.—A. Yes.

Q. Your next degree of expense would be in the No. 20?—A. We do not understand each other. What I mean is this: You want to know, I see now, whether if you make a No. 16 it costs you less than to make a No. 20, the higher grade?

Q. Yes.—A. That is it exactly; but if you start from No. 13 you could not make hard sugar; it would be too soft. But when you want to make soft sugar you take only low grades.

Q. When you want to make hard sugars only?—A. Oh, in this hard sugar you take only the refined. There is very little impurity and you must put in a poor sugar.

Q. Then you would start with different grades of raw sugar to make different grades of refined sugar?—A. Yes.

Q. And you would incur different degrees of expense on your raw sugar in turning it into 16s?—A. Yes, sir.

Q. And having selected your grade of raw sugar you would incur additional expense to turn it into No. 20.—A. No; when you start in with your sugar it is melted and goes over animal charcoal and is bleached and made white. Now, that [indicating] would make white sugar, but you don't get as much out of this [indicating] as out of that [indicating]. But this [indicating] will take more charcoal, and filtering will get the color out of it and bleach it. This [indicating] would make just as much white sugar as that, only it would need more charcoal.

Q. But I am talking about what it will cost to do it.—A. This [indicating] will cost more than that [indicating].

Q. That is to say, if you take this sugar [indicating] it will cost you more than if you take this [indicating]?—A. Yes, it will take more charcoal.

Q. If you take that sugar, what would you refine into—any grade you pleased?—A. Yes, any grade I pleased; but still I would have a percentage of what you call soft sugar.

Q. Suppose you had a thousand tons of this sugar, would you work it into different grades of refined sugar or into one uniform grade?—A. The profit would be in the highly-refined sugar. Granulated and cube sugar would sell for more than the other. I would try to make as much as possible of that kind of sugar, because I would get, say, $\frac{1}{2}$ of a cent more a pound than for the other grade.

Q. I do not seem to be able to make myself understood. Is this sugar suitable to refine into any grade of refined sugar you want to produce?—Yes, sir,

Q. Is it more suitable for refining into some grades of refined sugar than in others?—A. It will have less of the white sugar. You could not make but so much of it into white sugar. The last tailings or the last sugar must be soft sugar. When this, which is pure sugar [indicating], will go 99.9 that sugar [indicating] goes into yellow and makes, say, 84.

Q. Could you take this sugar No. 10 and make all granulated sugar out of it?—A. No.

Q. Could you make all No. 20 sugar?—A. Twenty is about granulated. This is a different kind of sugar.

Q. You have No. 20 in yellows?—A. Yes, to be sure.

Q. Could you make No. 20, if you wanted to, out of this grade of sugar [indicating]?—A. I think so; yes.

Q. The whole of it?—A. Not the yellows; you could not make it all into No. 20. The sugar gets always weaker. For instance, you can take that sugar [indicating] and make a soft sugar out of it that will make 96, while what is left of it will only make 82, which is the lowest product from that grade of sugar.

Q. What do you call it, then?—A. O yellow.

Q. In other words, when you are working up a given grade of sugar you turn out different kinds of refined sugars from it?—A. Yes, sir.

Q. Now, about what per cent., taking the average run of these sugars below No. 13, do you turn out of granulated, say out of 100 tons?—A. We would have about 76 or 77 per cent.

Q. Seventy-seven per cent. would be granulated?—A. Mind you, when you say No. 13, I want you to show me what crystals there are in it; I want to analyze it. No. 13 may be of that color, but I can not tell, until I put it into the polariscope, what it will polarize.

Q. Speaking now in a general way, without taking this into account, sometimes favorable and sometimes unfavorable, letting them offset each other, what will be the result?—A. We would get about 72 per cent. of granulated sugar.

Q. And the balance the yellows?—A. Yes, sir.

Q. Now, that 72 per cent. of granulated sugar has cost you more in the refining than the 28 per cent. of yellows; that is, more per pound?—A. No, the lowest do not cost any more, because the last left from the granulated you have in yellows.

Q. Would you charge up against them as cost of refining as much to the yellows as to the granulated?—A. Yes; you can consider that it costs as much per pound for the yellows as for what goes into the hard sugars.

Q. Suppose having worked up 72 per cent. of 100 tons of this sugar into granulated sugar and you estimate that it costs you 6 cents a pound, what would you estimate 28 per cent. of yellows cost you; if the granulated cost you 6 cents, what would you say the yellows cost?—A. Figuring the whole thing, that sugar costs us so much per hundred pounds to run it through. We take the whole thing; so much for charcoal, so much for labor, so much for barrels, and so on.

Q. But you have to give more treatment to the granulated sugars than to the others?—A. No, sir; you have here two sugars to refine. This sugar, No. 19, don't cost as much to refine as that No. 13, but this sugar would be worth more after refining than that.

Q. Precisely; but what I wanted to get at was whether you take this or that—whatever you take, you produce two products?—A. Three.

Q. Or half a dozen, only they are all white and yellow. I want to know whether you consider the yellows cost you more or less to refine than the whites, or the same.—A. I can not tell you that, because they go together; and these sugars, No. 19 and No. 13, are put together and turned out, so much yellow and so much granulated.

Q. In other words, when you turn out granulated you have put your raw sugars to the same amount of expense as when you turn out the yellows; you have incurred the same expense and put your sugars to the same amount of manipulation as when you turn out granulated, and the margin for the one is the margin for the other?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir.

Q. Mr. Spreckles, what is the difference between the sugar beet and the ordinary table beet?—A. The table beet is ordinarily red. This was the offspring, but then they brought this beet to the highest point of cultivation. It came originally, they say, from a turnip; but every year the quality improves.

Q. It is very much like the table beet?—A. It has gradually sprung from that, but we have brought it now to a high state of perfection.

By Mr. BUCHANAN:

Q. I have no desire to ask any question which would seem to be particularly appropriate to an investigation before the Committee of Ways and Means, but I would like to ask the question because it is of some interest to the people in my own State. Have you experimented in any of your refineries with the product of sorghum?—A. No, sir; I could not state that. I had a correspondence with Senator Plumb on that subject, and I tried to go to your State (New Jersey) last fall. Sorghum I don't know that I can speak of, whether it would be a success or not. You see there are different reports about it. As to the beet we know it is a success, and where you can raise sorghum you can raise beets.

By Mr. BRECKINRIDGE:

Q. What will be the effect, speaking of the relevancy of these questions to the Ways and Means Committee, of reducing the protection on refined sugars upon the trusts in the East?—A. If you reduce it entirely, take the duty off.

Q. I said reduce, I did not say take it off entirely.—A. If you reduce, it would have no effect; but if you take it off, there is no question about it that Germany and England can then ship sugar here, they having cheaper labor, material, etc.

Q. Would that break up the trust?—A. Yes, it would break up entirely the manufacturing interest in this country; there is no question about it, because England and Germany can refine that sugar cheaper. In Austria they only pay about a gulden for a ton of coal, that is about 40 cents; that is, of course, soft coal.

Q. Suppose, instead of abolishing the duty, you reduce it low enough to leave them no margin to make it worth while to combine, do you think that would have the effect of breaking up the trust?—A. Undoubtedly, with the exception that, as I say, I do not know how strong they are. I do not think they are so very strong. But if they come to make fifteen or twenty millions a year they would become very powerful. I do not say they could do it.

Q. Do you believe that that trust could exist except for the tariff on sugar?—A. And have the same tariff on the refined? They do not care whether there is any duty on the raw or not; that would not affect them.

Q. I am talking about the refined.—A. If you take the tariff off the

sugar would come free, no matter what color. Undoubtedly the refineries would be wiped out. It could not be otherwise.

Q. In other words, they can not exist but for the tariff. If it were not for the tariff that would be the end of the trust?—A. They could not live.

Q. The point is this: That under one mode of adjustment or another the trust derives its existence from the tariff, and could not exist if the tariff were wiped out. That is the connection between the Committee of Ways and Means and this question.

By Mr. BUCHANAN :

Q. Am I correct in understanding you to say that to wipe out this trust, so far as the effect of the tariff upon its continuance is concerned, it would be necessary to make sugars free?—A. That would wipe the whole thing out.

Q. It would wipe out the combination by destroying every member of the combination, would it not?—A. Yes; you would destroy every factory.

Q. And you think a simple reduction of 1 or 2 cents a pound in the tariff on sugars would not wipe out that combination?—A. They could not then. For they have just so much profit, and if they should charge the full difference the sugars would come from England and Germany here. They could not raise above that price.

Q. I understand. But my question is whether a simple reduction in the amount of duty would wipe them out?—A. Oh, no.

Q. And you understand that is all that is proposed by the bill of the Committee of Ways and Means—a reduction; is it not?—A. There is such a bill, but I have not read it; I leave that to you. When you come and ask me certain questions I keep nothing back; I am candid about it. If you take the duty off, you take a million and a half from me and my associates. If it is to be for the benefit and good of the American people, why should Claus Spreckels alone be favored and not the other people? It is silly. I have got plenty. I can not take anything along with me. I have worked for Claus Spreckels all my life, and now I am going to work for the people. I am not the man as you may have thought me, not having seen me. You may have thought that Claus Spreckels is the man to swallow brown-stone houses and digest cobble-stones; but I am not that kind of a man.

By the CHAIRMAN :

Q. I wish to ask one question. Mr. Spreckels, I understand the substance of your testimony to be that this American refinery in San Francisco is in the trust?—A. So far as I know.

Q. That is your understanding of it?—A. So far as I understand it they are in the trust.

Q. Was that fact stated to you by Mr. Searles in his interviews with you?—A. Yes, sir.

Q. So that the situation is that the American refinery in San Francisco being in the trust, the only refinery out of the trust on the Pacific coast is your own?—A. Yes, sir; the California refinery. And I will not go in the trust; you need not be frightened.

Q. What, if any, paper is there published in San Francisco which keeps the daily or monthly market reports of the sugar market?—A. I do not know; I will ask my son and will send it to you; I can not remember.

The committee then went into executive session and adjourned subject to the call of the chairman.

Comparative statement of rates of labor of sugar operatives (unskilled) in the United States and in the different countries of Europe.

(This statement is based upon ten hours for a day's work. In Germany, Holland, and Poland the time is twelve hours.)

	Per day.
New York, at 15 cents per hour	\$1.50
England, at 18 shillings per week .....	.75
Paris, at 2 francs per day .....	.40
Belgium, at 1.50 francs per day .....	.30
Holstein, Hanover, and Northern Germany, at 2 marks per day .....	.49
Madgeburg, at 1.75 marks per day .....	.42½
Germany, women (who do the same work in the field and factory as men), 1.10 to 0.80 marks per day .....	.24½
Russian Poland, at 2.50 marks per day .....	.60
Holland, at 2 guildens per day .....	.80

Rate of unskilled labor employed in sugar refineries in the United States at different periods.

1880, per hour	\$0.12½
1882, per hour .....	.13½
1888, per hour .....	.15

Skilled labor has advanced in the same proportion.

Expenses of refining 100 pounds fair refining sugar, testing 90°, not above No. 13 D. S., to soft sugar, No. 13 to No. 20 D. S., making no allowance for loss of weight, calculated from actual average results:

Wages	\$0.17
Coal (80 per cent. labor) .....	.1050
Cooperage (at least 90 per cent. labor) .....	.1436
Cartage (85 per cent. labor) .....	.0351
Bone-black (80 per cent. labor) .....	.0440
Insurance .....	.0267
Brokerage .....	.0193
Repairs and expenses (90 per cent. labor) .....	.0640
	<hr/> 6077

H. O. HAVEMEYER.

NEW YORK, July 19, 1888.

STATE OF NEW YORK, Attorney-General's Office, as:

I, Charles F. Tabor, attorney-general of the State of New York, do hereby certify that I have compared the annexed copies of the petitions of Richard Croker, Hugh J. Grant, and others, answer of Henry O. Havemeyer and others, answer of John E. Searles, jr., and opinion of the attorney-general of the State of New York, with the originals thereof on file in this office, and that the same is a correct transcript therefrom and of the whole of said originals.

In testimony whereof I have hereunto set my hand and affixed my official seal this 10th day of July, 1888.

[SEAL.]

CHAS. F. TABOR,
Attorney-General.

Attorney-general's office.

In the matter of the petition of Richard Croker, Hugh J. Grant, and Thomas F. Gilroy.

Your petitioners respectfully show upon information and belief as follows:

I. That the North River Sugar Refining Company is a domestic corporation, duly incorporated under chapter 40 of the laws of 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes," and the several acts amendatory thereof and supplementary thereto.

II. That the certificate of the incorporation of the said company was filed in the office of the clerk of the city and county of New York on or about the 11th day of February, 1865.

III. That in and by the said certificate of the said company it appeared that the objects for which the company was to be formed were "the business of sugar refining, the manufacture of sugar, sirup, and molasses from materials to be purchased by and for the use of the company in their said business, and the sale of the productions of such operations."

That the number of trustees who should manage the concerns of the said company should be five, and that the names of such trustees for the first year were Adolphus F. Ockershausen, Petter Moller, jr., George H. Moller, Cord Moller, and Peter Hogg.

IV. That heretofore and after the formation of the said corporation it offended against the provisions of the act by or under which it was created, and the acts amending the same and applicable to it, and violated provisions of law whereby it has become liable to be dissolved by the abuse of its powers, and has also forfeited its privileges or franchises by a failure to exercise its powers, and has done and omitted acts which amount to a surrender of its corporate rights, privileges, and franchises, as will hereinafter more fully and at large appear.

V. That heretofore and after the formation of the said corporation, it offended and still offends against the provisions of the act by or under which it was created, in that it does not carry on the business for which it was stated to have been incorporated, nor does it perform or fulfill or attempt to perform or fulfill the objects for which it was stated to have been formed, but that, on the contrary, it has become amalgamated with and a part of an unlawful combination for the monopoly of the refining and manufacture of sugar in this State, and for the regulation and control of the prices to be paid for the same, to the injury of the people of the State.

And further, in that the concerns of the said company are not managed or controlled by the persons mentioned in the certificate of incorporation of the said company or their successors, as required by the said act under which said company is formed, but that, on the contrary, they are managed and controlled by a board or body of men styling themselves the "Sugar Refineries Company" and consisting, as your petitioner is informed and believes, of the following named persons, viz: Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgensen, John E. Parsons, Charles H. Sneff, and William Dick, which said persons, or a majority of them, assume to and do control the said corporation and regulate its affairs.

VI. That heretofore and after the formation of the said corporation it violated and still does violate provisions of law whereby it has become liable to be dissolved by the abuse of its powers, in that it has violated the Penal Code of this State, and has entered into, carried out, and is still carrying out, as the sole purpose of its existence, certain contracts which are injurious to trade and commerce and illegal and void as against public policy and the law of the land, and in that it has entered into a contract, agreement, understanding, combination, confederation or conspiracy with certain individuals and corporations by which it is agreed that the parties to the said agreement, and who compose, as your petitioners are informed and believe, all the refiners of sugar in the State of New York—that they, the parties to the said contract, agreement, understanding, combination, confederation, or conspiracy, shall not compete with each other in the purchase or sale of sugar or any other article purchased or sold by them, or any of them, in the course of their business; but that, on the contrary, they, the parties to the said contract, agreement, understanding, combination, confederation or conspiracy, should buy and sell at prices to be fixed by a certain board, consisting, as your petitioners are informed and believe, of thirteen persons, some of whom are non-residents of the State, and known as "The Sugar Refineries Company." That the said combination, of which the said North River Sugar Refining Company forms, as aforesaid, a part, controls the production of refined sugar in this State, and regulates the price thereof; and that it has secured, by reason of the premises, and the action of the said North River Sugar Refining Company, a virtual monopoly of the sale and production of refined sugar in this State; and that the said monopoly or combination so entered into by the North River Sugar Refining Company was, and is, illegal, void, and against public policy and the well being of the people of the State, and a public nuisance, and was and is prohibited by section 168 of the penal code as an act injurious to trade and commerce, and that the conduct of the said North River Sugar Refining Company in the premises has been most harmful to the people of the State.

VII. That heretofore, and after the formation of the said corporation, it forfeited, as your petitioners are informed and believe, its privileges or franchises by a failure to exercise its powers, in that it is not engaged in the business or manufacture for which it was stated to have been incorporated, and in that it suffers itself to be controlled by a certain body of men who are not the trustees of said corporation, but are the co-conspirators who have formed and still continue the said illegal combination in restraint of trade and competition.

VIII. That heretofore, and after the formation of the said corporation, it did and omitted acts which amount to a surrender of its corporate rights, privileges, and

franchises, in that it ceased to transact its business as a corporation for the purpose of manufacturing, but amalgamated itself with and became a party to a certain confederation or combination of companies and firms organized and doing a similar business as itself, and submitted itself to the control of the said confederation or combination, and ceased to maintain its identity and its distinct existence and independent relations towards the people and to compete with the other corporations and firms composing the said combination, and that said corporation has ceased to exercise its proper functions, perform its duties, and transact business as designed and required by the acts under which it was incorporated.

And your petitioners further show that heretofore, and on or about the 16th day of February, 1888, the senate of the State of New York passed and adopted a certain resolution in the words following, to wit:

"Whereas it is alleged that many individuals, corporations, associations, and partnerships engaged in manufacturing, buying, selling, and dealing in various commodities, and especially in articles of general consumption and the necessities, are entering into and have entered into combinations and agreements among themselves, by which monopolies are created, commonly known as "trusts," the general purpose and effect of which is to control the supply of such commodities and necessities, destroy competition, regulate the quality and keep the cost to the consumer of such commodities at prices far beyond their fair and equitable value; and

"Whereas there is a popular demand for the suppression or regulation of such combinations or "trusts," so far as the same are injurious to the public interests, and so far as they can be fully suppressed or regulated by legislative action;

"Resolved, That the committee of the senate on general laws be, and hereby is, authorized to investigate fully all matters relating to the manner of the formation of the aforesaid combinations and agreements, commonly known as "trusts," and the effect of the same upon the public interests, etc., and with power to call for persons and papers, and to hold sittings in any part of the State."

That thereafter the said committee, in pursuance of the said resolution, held divers sittings in the city of New York, and examined various persons and took testimony, and had produced before them in evidence the instrument in writing whereby the aforesaid combination, the "Sugar Refineries Company," was formed, and to which the North River Sugar Refining Company was a party, and it took proof of the facts attending the formation of the said combination and the manner in which the said North River Sugar Refining Company became a party thereto, and the conduct of the said company in the premises, and such proceedings were thereupon had that the said committee made its report in the premises, in and whereby it found, among other things, that the combination so entered into by the said North River Sugar Refining Company was injurious to the public and against public policy, and that the actions of the several corporations and parties to the said combination, including the North River Sugar Refining Company, was injurious to the public interests, to which resolution of investigation and the testimony taken thereon, and the report of the said committee, these petitioners beg leave for greater certainty to refer.

And your petitioners further show that they are citizens and residents of the State of New York.

And your petitioners further show that by reason of the premises, the public interests require that an action should be brought by you, in behalf of the people of the State, to procure a judgment annulling the existence of the said corporation, the North River Sugar Refining Company, upon the grounds mentioned in subdivisions 1, 2, 3, 4 of section 1798 of the code of civil procedure.

Wherefore your petitioners pray that you may institute such action, and they will ever pray, etc.

RICHARD CROKER.
BERNARD MARTIN.
THOS. F. GILROY.
JOHN COCKRANE.
HUGH J. GRANT.

STATE OF NEW YORK, City and County of New York, ss:

Thomas F. Gilroy, being duly sworn, deposes and says that he is one of the above-named petitioners. That he has read the foregoing petition by him subscribed, and knows the contents thereof; that the same is true to his own knowledge except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

THOS. F. GILROY.

Sworn to before me this 16th day of April, 1888.

JOHN C. MUNZINGER,
Commissioner of Deeds, New York City.

Attorney-general's office.

In the matter of the petition of Richard Crocker, John Cockran, Bernard F. Martin, Hugh J. Grant, and Thomas F. Gilroy.

CITY AND COUNTY OF NEW YORK, ss:

John E. Searles, jr., president of the North River Sugar Refining Company, under oath answers the petition in this proceeding as follows:

First. I deny that the company has offended against the provisions of the act under which it was created or of the acts amending that act or applicable to it, or that it has violated any provision of law, or that it has done or omitted acts which amount to the surrender of its corporate rights, privileges, and franchises.

Second. It is untrue that the company has become amalgamated with or become part of a combination for the monopoly of refining sugar in this State, or for the regulation or control of prices to be paid for the same.

It is untrue that the concerns of the company are not managed or controlled by the successors of the persons mentioned in its certificate of incorporation, or that the said Harry O. Havemeyer and others, or a majority of them, assume to or do control the company or its affairs, or that it has entered into, carried out, or is still carrying out contracts which are injurious to trade and commerce, or illegal and void as against public policy and the law of the land.

It is untrue that it has entered into any contract, understanding, or arrangement by which it is agreed that individuals and corporations interested in sugar refining shall not compete with each other in the purchase or sale of sugar or other articles purchased or sold by them or any of them; or by which it is agreed that prices shall be fixed by the board known as the Sugar Refineries Company.

It is untrue that the Sugar Refineries Company or the individuals known by that name, control the production of refined sugar in this State, or regulate the price thereof, or that it has secured a virtual monopoly of the sale and production of refined sugars in this State.

It is not true that the North River Sugar Refining Company is not controlled by its trustees; or that it has done or omitted acts which would amount to a surrender of its corporate rights, privileges, or franchises; or that it has amalgamated itself with or become a party to a combination of other sugarrefining companies and firms; or that it has submitted itself to any such confederation or combination; or that it has ceased to retain its identity and distinct existence and independent relation towards the people; or that it has ceased to exercise its proper functions or perform its duties.

It is untrue that the North River Sugar Refining Company was a party to the instrument in the petition mentioned. One George H. Moller did, on behalf of the stockholders of the company, sign that instrument, but the parties interested denied his authority and refused to ratify his signature.

Third. The sugar refinery of the North River Sugar Refining Company is situated on Water and Corlears streets, in the city of New York. It is not possessed of the best and most economical appliances for sugar refining. To fit it for refining sugar economically would require a large expenditure of money.

On June 14, 1884, an act was passed providing for the laying out of a park in the city of New York, the area of which embraces the property of the company. From the passage of the act it has been generally understood that proceedings would be taken to condemn the property for the purposes of the park.

On or about February 25, 1888, the counsel to the corporation of the city of New York published notice of an application to be made on March 29, 1888, for the appointment of commissioners of estimate and assessment for the purpose. That application has been made.

The company has in consequence been compelled to abstain from making the improvements necessary to the economical working of its refinery, and in view of the immediate appropriation of its property for a park, has been compelled to cease operations.

All this is well known. It is, as I am informed and believe, known to the petitioner. I charge that their proceeding is not taken in good faith, but for political effect. I maintain that to punish the company for not continuing its business when it has been prevented from doing so by the legislature and the public authorities, would be most unjust and oppressive.

JNO. E. SEARLES, JR.

Sworn to before me this 4th day of May, 1888.
[L. S.]

W. MCMASTER MILLS,
Notary Public, N. Y. C. No. 2.

Attorney-general's office.

In the matter of the petition of Richard Croker, John Cockrane, Bernard F. Martin, Hugh J. Grant, and Thomas F. Gilroy.

Your petitioners respectfully show, on information and belief:

I. That heretofore, to wit, on or about the 16th day of August, 1887, Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick associated themselves together under the name of the "The Sugar Refineries Company," and thereafter assumed to and did act as a corporation and performed pretended corporate acts, and did exercise within the State certain corporate rights, privileges, or franchises not granted to them by the law of the State, to wit: that of having a corporate name; that of having a common seal; that of contracting obligations in such name; that of granting and receiving in such name; that of making by-laws or private statutes for their government, and that of perpetual succession.

That the said persons were not and are not incorporated nor chartered by any act of the legislature of this State, nor by the regents of the University of the State of New York, nor by any authority.

That the said persons under said name are still assuming to act as a corporation and to do corporate acts as aforesaid, and to exercise within the State the aforesaid corporate rights, privileges, or franchises not granted to them by the law of the State, to the prejudice and damage of the people of the State of New York.

II. That heretofore and for the space of eight months now last past and upwards, at the city of New York and State of New York, Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick have used and still do or charter the following liberties, privileges, and franchises, to wit: That of being a body corporate and politic in law, fact, and name, by the name of "The Sugar Refineries Company," and by the same name to hold meetings, elect officers, make by-laws, use a common seal, acquire property, to hold property by succession, to contract obligations, and to issue negotiable certificates of stock, all of which said liberties, privileges, and franchises the said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick, under the name of "The Sugar Refineries Company," during all the time aforesaid have usurped and still do usurp upon the State of New York, to its great prejudice and damage.

III. And your petitioners further show that the said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick have and exercise a monopoly of the business of refining sugar in the State of New York, and have and exercise a control of the production of refined sugar, and have and exercise the power of artificially and arbitrarily regulating and fixing the price of such sugars in the State of New York, and that, as your petitioners are advised and believe, such monopoly and power so asserted and exercised by said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick constitute a public nuisance.

Wherefore your petitioners complain and pray that you may institute an action in behalf of the people of the State to have it adjudged that the said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick are guilty of usurping or unlawfully holding or exercising a franchise or privilege and ousting and excluding them therefrom; to wit, to have it adjudged that the said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick are not legally incorporated, and that the said pretended "The Sugar Refineries Company" is not an incorporated company; that the said Harry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, Joseph B. Thomas, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick are acting as a corporation and doing pretended corporate acts without authority of law, and all others acting with or under them be enjoined and restrained from acting as a body corporate and from doing acts as a corporation, and that you institute such proceedings or prosecution or suit for injunctive relief as in your judgment may be proper.

Your petitioners beg leave to refer to the testimony of the Senate committee on trusts and make it a part of this petition,
And your petitioners will ever pray, etc.

RICHARD CROKER.
JOHN COCKRANE.
BERNARD F. MARTIN.
HUGH J. GRANT.
THOMAS F. GILROY.

STATE OF NEW YORK, *City and County of New York, ss.*

Thomas F. Gilroy, being duly sworn, deposes and says that he is one of the above-named petitioners. That he has read the foregoing petition and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Sworn to before me this 16th day of April, 1888.

THOS. F. GILROY.

JOHN C. MUNZINGER,
Commissioner of Deeds, N. Y. City.

Attorney-general's office.

In the matter of the petition of Richard Croker, John Cockran, Bernard F. Martin, Hugh J. Grant, and Thomas F. Gilroy.

CITY AND COUNTY OF NEW YORK, *ss.*

Henry O. Havemeyer, F. O. Matthiessen, John E. Searles, jr., Julius A. Stursberg, Theodore A. Havemeyer, John Jurgenson, John E. Parsons, Charles H. Senff, and William Dick, for answer under oath to the petition in this matter, depose and say as follows:

First. It is not true that we either individually or associated together or with others, whether under the name of the Sugar Refineries Company or at all, have assumed to act or have acted as a corporation, or have performed corporate acts or exercised corporate rights, privileges, or franchises.

In our individual capacity we, with Joseph B. Thomas and Charles O. Foster, of Boston, are the holders in trust of stock of incorporated sugar-refinery companies. For convenience, and to save the necessity of using a large number of names on every occasion, we are called the Sugar Refineries Company. It is only a name and is understood to be only a name. The interest of the parties whom we represent appears in certificates. The only use by us of a seal is to seal those certificates. It is used for safety and to make the certificates sealed instruments. The name "Sugar Refineries Company" is not a corporate name. It is untrue that in that name or otherwise obligations are contracted or that the privilege is exercised of granting and receiving in that name, or that in that name or otherwise we make by-laws or private statutes.

Second. It is untrue that we either individually or jointly, or associated with others, have used, or that we do use, the liberty, privilege, or franchise of being a body corporate either in the name of the Sugar Refineries Company or at all; or that by that name we hold meetings, elect officers, make by-laws, use a common seal, acquire property, hold property by succession, contract obligations, or issue negotiable certificates of stock. We have used a seal for the purpose previously mentioned and not otherwise. As individuals and in trust we hold stock as above mentioned. As individuals we have met occasionally, and of our number one has been designated to be president (he signs our certificates and has presided when we have met), one vice-president, and one to be secretary and treasurer. We receive the earnings on the stock held by us and distribute it. That is the only occasion for a treasurer.

Third. It is untrue that we, either individually or jointly, or associated with others, have or exercise a monopoly of the business of refining sugar in the State of New York, or that we have or exercise the control of production of refined sugar, or that we have or exercise the power of artificially and arbitrarily regulating and fixing the price of such sugar in the State of New York. Our only relation to sugar refining is that we are holders of stock in sugar refinery companies.

Fourth. Sugar refining is a large and important industry. It is extensively carried on in the State of New York. It is done by a number of sugar refinery corporations. A large number of persons are interested in the stock of these corporations. By arrangement made by them, we, with the said Joseph B. Thomas and Charles O.

Foster, hold their stock in these corporations in trust for their benefit. In no other way have we anything to do with sugar refining. Each corporation carries on its own business for its own account. We are advised and believe that everything which has been done by us in the premises is strictly in accordance with law. We believe that it is in the interest of employees and of consumers. So far from preventing competition, it has invited it.

Fifth. As we are informed and believe the petitioners are members of a political organization called "Tammany Hall." We charge that this proceeding is for the purpose of oppressing the interests of the sugar refiners, and for pelftical effect. We believe that it is the first time that an attempt has been made by a political body to use the office of the Attorney-General for such a purpose. Our organization has been publicly known since it was created. We respectfully submit that if there existed any necessity for action by the attorney-general "Tammany Hall" would not be required to procure him to take it.

H. O. HAVEMEYER.
F. O. MATTHIESSEN.
JNO. E. SEARLES, Jr.
JUL. A. STURSBURG.

Sworn to before me this 4th day of May, 1888.
[L. S.]

W. MCMASTER MILLS,
Notary Public, N. Y. C., No. 2.
THEO. A. HAVEMEYER.
J. JURGENSON.
CHAS. H. SENFF.
WM. DICK.

Sworn to before me this 4th day of May, 1888.
[L. S.]

W. MCMASTER MILLS,
Notary Public, N. Y. C., No. 2.
JNO. E. PARSONS.

Sworn to by John E. Parsons before me this 5th day of May, 1888.
[L. S.]

HENRY BURKE CLOSSON,
Notary Public, N. Y. Co.

Before the attorney-general.

In re The North River Sugar Refinery Company. In re Sugar Refineries Company.
Opinion.

There are two applications before me in the above-entitled matters, based upon petitions of Richard Croker and others, and verified by Thomas F. Gilroy.

In the matter of the North River Sugar Refinery Company it is alleged in the petition that this company is a domestic corporation, organized under the laws of this State; that its object was the manufacture of sugar; that its trustees were five in number, and that its certificate of incorporation names them; and that it has offended against the provisions of law in the following particulars:

1st. It does not carry on the business for which it was incorporated, but on the contrary, it has become amalgamated with and a part of an unlawful combination and monopoly.

2d. The concerns of the company are not managed by its trustees, but are managed by a body of men called "The Sugar Refineries Company."

3d. It has violated the Penal Code, section 163, by engaging in an unlawful combination or conspiracy with others, constituting the Sugar Refineries Company, for the purpose of advancing and controlling prices.

4th. It has ceased to maintain its identity and to exercise the functions for which it was incorporated.

The attorney-general is asked to commence an action for the purpose of annulling the existence of the corporation, under section 1798 of the code of civil procedure, subdivisions 1, 2, 3, 4, and 5, which read as follows:

"The attorney-general, upon leave being granted, may bring an action against a corporation created by or under the laws of this State, to procure a judgment vacating the charter or annulling the existence of the corporation, upon the ground that it has, either—

"1st. Offended against any provision of an act by or under which it was created, altered, or renewed, or an act amending the same, applicable to the corporation; or,
"2d. Violated any provision of law whereby it has forfeited its charter or become liable to be dissolved by the abuse of its powers; or,

"3d. Forfeited its privileges or franchises by a failure to exercise its powers ;

"4th. Or done or omitted any act which amounts to a surrender of its corporate rights, privileges, and franchises ; or,

"5th. Exercised a privilege or franchise not conferred upon it by law."

Before this action can be commenced, it is necessary, under section 1799 of the code, that leave should be granted by the court, and the court may, in its discretion, require such previous notice of the application as it thinks proper to be given to the corporation, or any officer thereof, and may hear the corporation in opposition thereto.

In the matter of the Sugar Refineries Company it is alleged in the petition that certain parties have associated themselves together under the name of the Sugar Refineries Company ; that they assume to be a corporation in the following particulars : First, having a corporate name ; second, having a common seal ; third, contracting obligations in such name ; fourth, making by-laws ; fifth, having perpetual succession ; sixth, holding meetings and electing officers ; seventh, acquiring property, and holding it by succession ; eighth, issuing negotiable certificates of stock ; and generally that they exercise a monopoly in the production of sugar and that such monopoly is a public nuisance.

The relief asked for in this application is that the attorney-general bring an action to restrain the parties from acting as a corporation and from doing pretended corporate acts without authority of law, under section 1798 of the code of civil procedure, which provides as follows :

"The attorney-general may maintain an action upon his own information, upon complaint of a private person, in either of the following cases :

"Subdivision 3. Against one or more persons who act as a corporation within the State, without being duly incorporated, or exercise within the State any corporate rights, privileges, or franchises not granted to them by the law of the State."

Upon the hearing before me most of the allegations contained in the petitions in the above cases were denied by the respondents.

It was admitted in the matter of the North River Sugar Refinery Company that it had not been in operation for several months, but since a time prior to the formation of the so-called trust, and in the matter of the Sugar Refineries Company it was admitted by the respondents that they call themselves by the above name upon their certificates, and that they authenticate such certificates with a seal.

The only evidence before me as to the truth of the issues joined by the petitions and answers was the different allegations contained in these papers, and the evidence taken before the Senate investigating committee.

If the attorney-general was compelled to try these cases upon the conflicting statements contained in the petitions and answers, no very satisfactory conclusion could be arrived at.

I have therefore assumed that upon the trial of any action brought by me it will be possible to prove that the allegations contained in the petitions are true.

The question then is, under the law and the decisions can the actions asked for here be maintained ?

As bearing upon some of the questions involved, section 168 of the Penal Code has been called to my attention, which reads as follows :

"Subdivision 6. If two or more persons conspire to commit any act injurious to the public health, the public morals, or to trade or commerce, or for the perversion or obstruction of justice, or the true administration of the laws, each of them is guilty of a misdemeanor."

By 1 Revised Statutes, seventh edition, page 476, section 1, it is provided : "It shall be the duty of the attorney-general to prosecute or defend all actions in the event of which the people of the State shall be interested."

In the case of the *People vs. Ingersoll* (58 N. Y., 16) Judge Allen says : "The prerogatives of the Crown, except as affected by constitutional limitations, exist in the people as sovereign, but to what extent this prerogative is committed to the public officials, either by the legislature or by the common law, is a question worthy of grave consideration, and not to be lightly decided, and should only be determined when necessary to a judgment and decision. Whenever the legislature, by statutory enactment, has conferred upon State officers or public bodies authority to represent the body of the people in the exercise of any prerogative right no question can arise, for in these matters, except as restrained by the constitution, the legislature is supreme. If there were no other remedy for a great wrong, and public justice and individual rights were likely to suffer for want of a prosecutor capable of pursuing the wrong-doer and redressing the wrong, the courts would struggle hard to find authority for the attorney-general to intervene in the name of the people."

It has been held that "an association among the whole or a large portion of the proprietors of boats on the Oswego and Erie Canals, under an agreement to regulate the price of freight and passage by a uniform scale to be fixed by a committee chosen by themselves, and to divide the profits of their business according to the number of

boats employed by each, with provisions prohibiting the members from engaging in similar business out of the association, is illegal. The tendency of such an agreement is to increase prices, to prevent wholesome competition, and to diminish the public revenue. It is, therefore, against public policy, and is void by the principles of the common law." (See *Stanton vs. Allen*, 5 Denio, 434; *Hooker vs. Vandewater*, 4 Denio, 349; *Clancy vs. C. F. S. M. Co.*, 62 Barb., 395.)

It was also held in the case of *The People vs. Fisher* (14 Wendell, page 9) that a conspiracy of journeymen workmen of any trade to raise their wages by entering into a combination is indictable as a misdemeanor. This has been changed by section 170 of the Penal Code.

It was also held in the case of *Atcheson vs. Mallon* (43 N. Y., 147) that "an agreement between parties designing to make bids, tending either directly or indirectly to restrain or lessen rivalry or competition between them, is void as against public policy, even although it may appear that such an agreement did not result in detriment to the public interest."

In *Arnot vs. Pittston and Elmira Coal Company* (68 N. Y., 558) it was held: "Where one producer of a commodity, for the purpose of enhancing the price, enters into a contract with another producer, binding the latter to hold and keep out of the market his supply, the contract is against public policy and void." (*Morris Run Coal Co. vs. Barclay Coal Co.*, 63 Pa. St., 173; *Central Ohio Co. vs. Guthrie*, 35 Ohio St., 666; *Craft vs. McConoughy*, 79 Ill., 346.)

The following propositions may also be assumed to be well settled in this State:

First. A statute restraining any person from certain acts applies equally to bodies politic or corporate. (See 15 Johnson, 358; Penal Code, section 718, subdivision 15.)

Second. The exercise of corporate powers without legal authority may be prevented and punished by the State. (Section 1948, Code of Civil Procedure; *Morawits on Corporations*, sec. 29; *People vs. Utica Ins. Co.*, 15 John., 358; *People vs. Dispensary*, 7 John., 304.)

Third. Where there has been a misuser or nonuser in regard to matters which are of the essence of the contract between the association and the State, they constitute a just ground for forfeiture. (*People vs. Phoenix Bank*, 24 Wend., 431; *Commonwealth vs. Com. Bank*, 26 Pa. St., 389.)

Fourth. Corporations are political trustees. Whether they have fulfilled the purpose of their trust or acted in good faith in regard to their fulfillment is the question to be asked when they are called upon to forfeit their charters, either for acts of omission or commission. (*People vs. Turnpike Co.*, 23 Wend., 236; *People ex rel. Bishop vs. R. R. Co.*, 23 Wend., 193.)

Fifth. The franchise of acting in a corporate capacity can not be assumed without the permission of the State, and if a company attempts to exercise this franchise without having authority it may be prevented from so doing and dissolved by the State through proceedings *in quo warranto*. (*State vs. Bradford*, 32 Vermont, 50; *State vs. Central Ohio Rwy. Assn.*, 29 Ohio St., 399.)

Sixth. The suffering an act to be done by a corporation which destroys the end and object for which the corporation was instituted must be regarded as equivalent to a direct surrender. (*Slee vs. Bloom*, 19 Johnson, 456.)

It is confidently claimed by the petitioners that the testimony taken by the Senate investigating committee last winter shows that most of the allegations alleged in the petition are true. This committee, in its report to the Senate, says:

"The combination known as the Sugar Trust, with a capital represented by stock certificates amounting to \$45,000,000, came into existence by virtue of an agreement dated on or about October 24, 1887, by and between the stockholders of eight sugar refineries corporations of this and other States on the eastern coast of the United States (one, however, was located in Saint Louis), by which they agreed to surrender the stock of their several corporations to certain persons, as trustees, called the Sugar Refineries Company, and who were to hold the same for the benefit of all; and in exchange for such stock so surrendered the several stockholders so surrendering receiving stock certificates in the Sugar Refineries Company in amount at least four times the nominal value of the stock surrendered. This stock of the several corporations in the hands of the trustees, called the Sugar Refineries Company, gave them the absolute control of all the refineries in the combination, and enabled the trust to run all the refineries exclusively for the profit of all, and without any competition between them. By such surrender the several corporations became the mere satellites of the trust (being the Sugar Refineries Company), and all their affairs are dominated from the central body. A system of reports containing statements of raw material purchased, refined sugar on hand, the daily output of each refinery, together with the funds in the treasury, is established between the trust and its vassal corporations. The Sugar Refineries Company 'recommended' when a refinery shall shut down and when it shall run, but, work or idle, it receives its share of the general earnings. The trust exercises absolute control of all the industry, and in its discre-

tion takes in new corporations which surrender their stock at a valuation agreed upon, and in turn receive certificates of stock in the Sugar Refineries Company, for which reception of new corporations the original trust agreement made full provision. It is obvious that in effect this combination, representing as it does 85 per cent. of the sugar-refining capacity of the Atlantic coast, and all the sugar refineries in the State can greatly affect and for a time at least control at once the price of the raw material and of the refined product, and this without regard to the interest of the consumer.

"It appears that the price of sugar has largely advanced since the trust's formation, and no satisfactory explanation was given of the cause of such advance, aside from the combination complained of of 85 per cent. of the sugar refiners of the Atlantic coast to put up prices. * * * The attention of the attorney-general is respectfully called to the testimony taken before your committee, showing a violation of the laws."

In conclusion, it may be said, in view of the allegations contained in the petitions before me and of the report of the committee of the senate, that it is important to ascertain by judicial investigation whether these things alleged against these respondents are true. If they are, a great public wrong has evidently been committed by them.

The law seems to be amply sufficient to secure the redress necessary in such a case. The necessary papers will be at once prepared for presentation to the court for the purpose of obtaining leave to prosecute an action against the North River Refineries Company; and in the matter of the Sugar Refineries Company, no leave being necessary, an action may be commenced at once.

Albany, June 29, 1888.

CHAS. F. TABOR,
Attorney-General.

NEW YORK DAILY COMMERCIAL BULLETIN AND THE REVIEW, 32 BROADWAY,
New York, April 24, 1888.

DEAR SIR: Inclosed herewith please find the comparisons of London prices of raw and refined sugars, which you desired included in the writer's testimony before the trust investigating committee. They are forwarded later than intended, because of attention to other matters and because of the difficulty of obtaining a satisfactory and complete record amongst the trade here. We endeavored to make the comparison correspond with the New York statement of prices already handed you as closely as possible, viz, a statement of highest and lowest quotations each month from 1885 (inclusive), based on the daily published prices; but after a thorough search we find no acceptable record of this kind, and are obliged to present a statement compiled from the London circular of C. Czarnikow, a weekly publication, considered high authority by the New York trade. This circular is wanting in the quotations for refined in 1885, and only gives the bid and asked price at the close of each week, the bid prices being selected for comparisons in the accompanying inclosures. Possibly, therefore, the prices given do not fully cover the widest extremes; but, as we were unable to obtain any continuous daily or weekly record, and it would be undesirable to use more than one authority, these figures are the completest obtainable. Should you require a more exact compilation I would suggest your writing to London; though for all practical purposes you will probably find these comparisons will answer your purpose.

The grades selected, "strong Java" and "Lyles granulated," correspond as closely as possible to the New York grades quoted in previous testimony.

Very respectfully, yours,

J. W. DODSWORTH,
Manag. Ed. Com. Bulletin.

Hon. HENRY BACON,
Chairman Committee on Manufactures, Washington, D. C.

Raw sugar, "strong Java," at London.

	Highest per cwt.	Lowest per cwt.		Highest per cwt.	Lowest per cwt.
1885.	<i>s. d.</i>	<i>s. d.</i>	1886.	<i>s. d.</i>	<i>s. d.</i>
January	14 9	14 9	September	13 6	13 6
February	14 9	14 8	October	13 9	13 2
March	14 9	14 9	November	13 2	13 1½
April	15 0	14 9	December	13 6	13 2
May	18 6	15 2	1887.		
June	18 9	18 6	January	13 6	13 4½
July	18 0	18 2	February	12 4½	13 0
August	17 6	16 3	March	13 2	13 0
September	17 9	17 6	April	13 6	13 2
October	17 6	17 6	May	13 6	13 6
November	17 3	17 0	June	13 6	13 2
December	17 9	17 3	July	13 6	13 6
1886.			August	14 0	13 6
January	17 6	16 0	September	14 0	13 9
February	15 9	14 9	October	14 2	14 0
March	15 0	14 3	November	16 6	14 9
April	15 6	14 6	December	17 9	16 3
May	15 6	14 0	1888.		
June	13 3	13 3	January	17 9	16 2
July	18 6	13 3	February	16 2	15 0
August	18 3	12 9	March	15 6	15 4½

* Three weeks.

Refined sugar, "Lyle's granulated," at London.

	Highest per cwt.	Lowest per cwt.		Highest per cwt.	Lowest per cwt.
1886.	<i>s. d.</i>	<i>s. d.</i>	1887.	<i>s. d.</i>	<i>s. d.</i>
June	18 0	18 0	May	16 3	16 3
July	18 3	18 0	June	16 9	16 3
August	18 0	16 9	July	16 9	16 9
September	17 0	16 9	August	16 9	16 6
October	17 3	17 0	September	17 0	16 9
November	17 0	16 6	October	17 9	17 0
December	16 9	16 9	November	19 6	13 6
1887.			December	21 0	19 3
January	16 9	16 6	1888.		
February	16 9	16 6	January	20 6	19 9
March	17 0	16 6	February	19 9	18 6
April	17 3	17 0	March	18 9	18 6

* Three weeks.

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THE STANDARD OIL TRUST.

COMMITTEE ON MANUFACTURES,
HOUSE OF REPRESENTATIVES,
Friday, April 6, 1868.

The committee met at 2 o'clock p. m. Present, the chairman, Mr. Breckinridge, Mr. Wilson, Mr. Bynum, Mr. Grimes, Mr. Hopkins, Mr. Smith, and Mr. Crouse.

STANDARD OIL TRUST.

The CHAIRMAN. I have present here some witnesses subpoenaed by a deputy sergeant-at-arms to attend at this time and be examined with relation to some features of this Standard Oil Trust matter. I will call the names of the witnesses:

J. B. Goldsboro, David Kirk, Henry Webster, I. N. Bennett, and E. F. Howes.

All answered to their names except Mr. Howes.

The CHAIRMAN. As far as I am concerned, I am ready to go on with the examination of these witnesses, if that is the judgment of the committee.

Mr. BRECKINRIDGE. I suppose the regular order is for you to proceed.

The CHAIRMAN. It is a little out of its order, but if agreeable to the committee, I will call some witnesses who are here, and who are anxious to return home, and whose examination will be shorter, possibly, than some of the other witnesses.

TESTIMONY OF HENRY WEBSTER.

HENRY WEBSTER, sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. Bradford, Pa.

Q. What is your occupation?—A. Contractor in the business of drilling oil wells.

Q. Are you a practical operator of the drill yourself?—A. I am, sir.

Q. How long have you been engaged in that business?—A. I have been engaged in that business twenty-two years.

Q. In and about Bradford?—A. Not all the time; no, sir.

Q. Do you know an association known as the Oil Well-Drillers' Union?—A. Yes, sir.

Q. Where is that union located?—A. In Butler County and part of Allegheny County, north of the Ohio River; Crawford County and part of Warren County; Venango County; Clarion County; Armstrong County; Forest County; Elk County; Allegheny County, N. Y.; McKean County, Pa., and Cattaraugus County, N. Y.

ST.

us, sir.

to a man's occupation in

ill wells, or tool dresser.

low of any.

in one of these counties!—

ere?—A. Nine of them.

the whole territory of the

organization? Does each dis-

they combined?—A. They

laws of any State?—A. No,

have they a charter?

er. I do not know of any.

don't know how it is about

you mean have they officers?

ldges, I guess.

n?—A. I think they have;

ould like to state to the com-

that our order is a secret

are obligated not to tell the

willing to tell you anything

ate of that in any way; but

e, and their names I have

committee will really insist

insist upon it.

I ask you now whether

set of officers that are over

resents?—A. No, sir.

who they are?—A. I think

know them.

a set of men who are offi-

er the whole union author-

the whole union?—A. They

iness. I suppose they are

thing they do has to be ac-

so-called Producers' Asso-

general officers, has to be

eparately before it becomes

thirds vote of each lodge.

Two thirds of all the lodges.

the lodges, by a two-thirds

ers, it binds them all?—A.

on, I take it?—A. Yes, sir.

to the organization?—A. I

think we have got somewheres between 2,200 and 2,400; I don't know exactly.

Q. When did the organization come into being; when did it begin?—A. Eighth of December, 1887.

Q. Prior then to the 8th of December, 1887, there was no such organization?—A. No, sir.

Q. You have been a member of it since that time?—A. I have been a member since the 17th day of December, 1887.

Q. Does this organization cover the oil-producing territory of Pennsylvania and New York?—A. It does, the most of it. Yes, I think it covers the whole. There may be one that it does not cover. Yes, I gave you Allegheny County, that I think is wrong. I do not think it has been organized yet; I do not believe there is any lodge there; but still it is down on our books.

Q. Do your separate lodges have charters of organization from the general officers?—A. No, sir; we have no charter.

Q. I do not mean a State charter. Do you have authority from the general officers to organize lodges?—A. Oh, yes, sir.

Q. Are there any contractors, or men skilled in driving wells for oil, in that country that are not embraced in these lodges?—A. Yes, sir.

Q. About how many?—A. I don't know that I could give you an estimate of that. It would be pretty hard for any one man to do it.

Q. Are all the prominent contractors and persons who have been engaged largely in this business in these lodges?—A. The majority of them are.

Q. Do you recollect anybody that has been particularly prominent or active in this business that is not in it?—A. Yes, sir.

Q. Name any person of that sort you can recollect.—A. I can tell you one man, William Fitzgibbons.

Q. Where does he live?—A. In Bradford; but he is now operating on the Ohio for himself.

Q. He is no longer in the business in that field?—A. No, sir; he is doing no business in this field.

Q. When did he go out of this field?—A. About a year ago.

Q. Can you name anybody else?—A. No, I don't know of any one else.

Q. Were you active in helping to organize this union?—A. No; not more than anybody else.

Q. Did you take an active part in it, whether other people did or not?—A. No, sir.

Q. Then you came into it, I take it, at the solicitation or request of somebody?—A. I came into it voluntarily.

Q. Somebody talked to you about it before you came in, did they not?—A. I heard of it.

Q. I have heard of it, too, and yet I would not know how to get into it. Somebody had talked to you, had they not?—A. It had been mentioned among drillers, and men talk about such things always when a thing of that kind is started. I did not talk to anybody any more than our own class of men.

Q. I mean your class of men.—A. Yes, sir.

Q. In that talk what was said about the reason or advantage to be obtained by forming this association?—A. Simply, we thought by forming it—there was some oil set aside by the producers when they shut down—and, by forming it, we would get a share of that, whatever it was, and when we stopped drilling we would stand in with the men,

that is, we would be good friends with those men who had been doing the work, and we would still get their work.

Q. Then before this was formed there had been a producers' association formed; that is, before your association was formed?—A. I heard of such a thing.

Q. You heard such thing commonly talked about?—A. Yes, sir.

Q. And it was commonly reputed that the producers' association had made a contract by which the amount of oil produced was to be diminished?—A. Yes, sir.

Q. And had the driving of wells, or the cleaning out of wells, the business of contractor, diminished?—A. Yes, sir; of course, there was nothing to do hardly.

Q. The producers were not driving any new wells, or cleaning out new wells?—A. No, sir; not of any account.

Q. And you had also heard that a certain amount of oil had been set apart to compensate the labor which was thrown out of work by this arrangement to reduce the production of oil?—A. Yes, sir.

Q. And the object in forming this organization then, as I take it, was that you might get the benefit of this oil that had been reserved by these parties?—A. Yes, sir.

Q. Now where was this oil, as you understand it, that had been reserved?—A. The producers had it.

Q. It was above the ground?—A. I suppose so.

Q. It was stored somewhere?—A. I suppose so.

Q. You understood it was in the possession of the Standard Oil Company or the Standard Oil Trust?—A. I can not say really that I did understand it that way.

Q. Where did you understand that the oil was?—A. I understood the producers had it.

Q. The producers had it in their possession?—A. That is the way I understood it.

Q. And now what quantity of it did you understand had been set apart for the labor element?—A. Two million barrels. May be I may have made a little mistake about that; I guess I did, too. I am positive now that I understood that the Standard Oil Company had set aside one million barrels and the producers had set aside one million barrels; that should have been my statement.

Q. Since the formation of this Drillers' Union, on the 8th of December, 1887, what has been the condition of affairs out there, as to work being done in your line?—A. There has been none scarcely; there has been, of course, some little going on.

Q. Nothing like there was before?—A. Oh, no.

Q. Take it a year before; there was nothing like as much work done as there was the year before?—A. No, sir.

Q. And of course that has thrown you and the other persons engaged in this Drillers' Union out of work, has it not?—A. Yes, sir.

Q. I take it that a majority of the people belonging to this Drillers' Union are laboring men, are they not?—A. They are all, sir.

Q. And have your members of this Drillers' Union received any funds?—A. Yes, sir.

Q. From time to time?—A. We have.

Q. That was not paid you as compensation for work done?—A. Yes, sir; that is right.

Q. You have been paid without doing any work?—A. Yes, sir.

Q. About how much money in the aggregate has been paid out in that way?—A. Do you mean in the whole?

Q. Yes; from the 8th of December until now?—A. Indeed, I could not tell you. I know how much I have received.

Q. How much have you received through the Drillers' Union, or the Producers' Union, I mean?—A. I have received \$75.

Q. In all?—A. Yes, sir; that is what I have received.

Q. For that you did no work?—A. No, sir.

Q. Have you done any work at drilling this winter?—A. Not a thing.

Q. Have any of these outside drillers or contractors been doing any work this winter?—A. They have been doing some in Butler County and Washington County; occasionally there was a well drilled in McKean County. Now there have been a couple of wells drilled; that is, oil wells.

Q. Were any of these wells driven or cleaned out by members of this Drillers' Union?—A. There has been some where they had permits from the Producers' Association for drilling them.

Q. Have there been any cases in which the Drillers' Union have done any boring or digging of wells or cleaning out of wells, except where permission has been granted by the Producers' Association?—A. Not that I know of.

Q. Is it a part of your arrangement that you shall not do any work without a permit from the Producers' Association?—A. That is in our contract.

Q. Have you a copy of that contract?—A. It is here. I think we have one here. [To Mr. Bennett: "Have you one, Mr. Bennett?" Mr. Bennett here handed witness the agreement.] Here it is; Mr. Bennett had it.

Q. Just look at that and see if you recognize that as being the contract? Just satisfy yourself as to whether or not it is the contract.—A. Yes, it is the contract [handing it to the chairman].

The CHAIRMAN. I will just read it, so that the committee may know what it is:

Agreement made and entered into this 22d day of December, A. D. 1887, by and between the executive board of the Producers' Protective Association of the first part, and the executive board of the Well-Drillers' Union of the second part, witnesseth:

The party of the first part agrees to pay to the party of the second part the profits on 1,000,000 barrels of oil and the residue on another million barrels that may remain after adjusting and paying the other classes of labor injured by the shut-down movement, the cost price of said oil being 62 cents per barrel on the 1st day of November, 1887, and subject to interest, storage, and fire-loss charges from that date; the aforesaid profits to be distributed among the members of the Well-Drillers' Union who have been thrown out of employment. The said oil shall be held by the party of the first part, and sold by them when they think proper, but not faster than one-fourth every three months.

The party of the first part shall advance, upon said prospective profits, such sums as shall pay to each member of the Well-Drillers' Union \$1 per day, Sundays included, for each day said member is out of employment at drilling during the continuance of this agreement, payable on the 10th day of each month for the previous month.

The entire oil to be sold before the 1st day of December, 1888, and the residue of profits, after deducting the advances made as aforesaid, and advances for expenses and interest thereon shall be paid to the party of the second part, to be divided and paid by them to the members entitled thereto pro rata, in proportion to the time they have been out of employment at drilling, and also to compensate contractors for loss and interest on their drilling outfits on such basis as the party of the second part may consider fair and just.

The persons entitled to the aforesaid benefits shall only consist of members in good standing of the Well-Drillers' Union, and who have been legitimately engaged in the business of contracting, drilling, or tool-dressing during the year 1887 in the light oil field on oil wells; exceptions, however, may be made to this rule by the executive board of the Well-Drillers' Union.

All persons entitled to such benefits shall devote their time and attention to the stopping of the drill during the continuance of this agreement, and shall report weekly to a designated officer.

The party of the second part shall furnish to the party of the first part, on or before the fifth day of each month, pay-rolls, containing the names, residence, and occupation of their membership; also the last employer's name, residence, and date of such employment, which roll shall embrace all who are entitled to the aforesaid benefits. There shall also be presented an itemized account of actual expenses incurred in the stoppage of the drill.

There shall be a committee in each district, selected by the executive board of the local lodges, whose duty it shall be to keep a lookout for, and to endeavor to prevent the drilling of wells when ordered by the local lodges of either the Producers' Protective Association, or the Well-Drillers' Union. Said member may be changed to suit the occasion and shall receive as compensation, \$1 per day, in addition to his pay as a member, for each day so engaged, together with his actual and necessary expenses.

Any member of the Well-Drillers' Union, who shall assist the above-named committee in the shut-in movement, shall be entitled to actual expenses when so engaged.

No member of the Well-Drillers' Union shall engage in the drilling or cleaning out of any well in the Light Oil Fields without the consent of a designated officer of the Producers' Protective Association in the district to which he belongs.

Any member of the Well-Drillers' Union who shall obtain employment at drilling shall cease to draw pay for the time so employed.

This agreement, as to benefits and advances and the stoppage of the drill, shall continue in full force until the 8th day of September, 1888, but may be terminated at any time, upon the party of the first part giving ten days' notice to the party of the second part, and no obligations to pay or make advances shall exist after the delivery of said notice.

The first pay-rolls shall be made for the present month and compensation shall be made back to December 8, 1887; each member shall be paid from the date of his membership, and shall be paid January 10, 1888.

Previous to the expiration of this contract, it is designated that the parties of the first part and second parts shall meet and fix a scale of prices on just and equitable terms to both parties, which shall be carried out in good faith by the parties hereto.

It is also understood that the members of the Well-Drillers' Union shall have the preference in contracts and work whenever work is resumed.

This contract shall be submitted to each local assembly of the Producers' Protective Association, and to each district assembly of the Well-Drillers' Union, and when approved by two-thirds of said assemblies, such approval shall be given to the president of each assembly, and be binding on all.

Q. Mr. Webster, I call your attention to this provision in this contract:

There shall be a committee in each district, selected by the executive board of the local lodges, whose duty it shall be to keep a lookout for, and to endeavor to prevent the drilling of wells.

Has any action ever been taken under that clause of the contract?—**A.** No, sir; there has been a man looking over the field to see what has been going on.

Q. There has been a man appointed then as a committee to keep a lookout?—**A.** Yes, sir.

Q. Has there been a man appointed by each lodge, or one for all the lodges?—**A.** I can not answer for anything outside of our own lodge. There has been a man appointed from my lodge for that purpose.

Q. Which is your lodge?—**A.** Bradford County and McKean County.

Q. Has there been any attempt to drill any wells in McKean County by any person or persons, so far as you have heard of it, without an order from one or the other of these associations?—**A.** I think there has.

Q. Since this contract was formed?—**A.** Yes, sir; that is, so far as I know.

Q. Has there been any well drilled or opened up or cleaned out in that county since the formation of this contract, except by the permission of one or the other of these associations?—**A.** I feel pretty positive that there has been.

Q. Have you so heard?—A. Yes, sir.

Q. That is the information you have?—A. Yes, sir.

Q. Has there been any attempt made to persuade or induce persons from attempting to drive a well or clean out a well there without such an order to stop?—A. Nothing more than getting them to join our union.

Q. That has been done, has it?—A. Yes, sir. They have been asked to join our union.

Q. And with the understanding that if they joined the union they would not continue work without the permission of one or the other of these associations?—A. Yes, sir.

Q. Have you heard, Mr. Webster, of the destruction of any well or of the apparatus used in drilling or cleaning out any well in McKean County since this agreement was formed?—A. You mean have I heard of the destruction of any property?

Q. Yes.—A. Yes, sir.

Q. Was that a case where the well was being driven or cleaned out?—

A. No, sir; the rig was standing.

Q. Preparation was made to dig a well?—A. I don't know as the drillers were there.

Q. But the apparatus was there?—The rig was there. I understand the rig was there; I never saw it.

Q. Was it a case where no permission had been granted by these associations?—A. I don't know.

Q. But you understand there had been no permission granted?—A. Yes, sir.

Q. Was the rig destroyed?—A. As near as I can understand it the derrick was blown up by some kind of compound.

Q. Some explosive was put under the dirt and it went skyward?—A. Yes, sir; as I understand.

Q. Has there been any other case of that kind anywhere within the field covered by this association to which you belong?—A. I have heard of another case—two of them.

Q. Where?—A. One near Oil City, and one near Emlington.

Q. Do you know a place called West Branch?—A. Yes, sir.

Q. Where is that?—A. It is a stream that runs through Bradford, and starts up above Bradford. It is west of Tona Creek.

Q. Have you heard of a man by the name of Leasure?—A. Yes, sir.

Q. Who had a leasehold right on the West Branch?—A. Yes, sir.

Q. Did you hear of the destruction of the derrick and apparatus where he was preparing to dig a well?—A. Yes, sir.

Q. I have a paper here, or a cutting from a paper, dated March 28. Is that about the time when the thing occurred, as you understand?—A. I can not say positively, but I think it was along about there.

Q. It has been about a week ago?—A. It has been more than a week ago; about two weeks.

Q. This paper puts the date as Monday night of last week.—A. I don't just exactly remember that it was a week ago last Monday night.

Q. Is that the occurrence of which you testified as having occurred in McKean County?—A. I understand that it occurred.

Q. That is the one about which you testify?—A. That is the one to which I have reference.

Q. I propose to read this so that the witness may state whether this statement of it is as he understood it:

[From the Daily Oil News, March 28, 1888.]

MYSTERIOUS EXPLOSION.—GLYCERINE LETS GO AT NIGHT, REDUCING A RIG, BOILER, AND ENGINE TO DESTRUCTION.—THE AUTHOR OF THE DEED UNKNOWN.

Bang! bang! bang! came a heavy report three times in quick succession Monday night at just six minutes to 11 o'clock from the direction of the West Branch. Some of the houses in the upper part of the Third ward were shaken as though a boiler had exploded in the adjoining lot. People ran to their doors to see what had happened and heard after the first explosion two more terrific ones.

It was learned yesterday morning that a rig belonging to Marion Leasure, and who else is not stated, had been completely demolished by what is supposed to have been glycerine, by some unknown parties. Mr. Leasure has been repeatedly requested to join the shut-down, but refused. He had just moved the rigging from a newly completed well to a place in the dense forest on Fuller's Brook, about 6 miles from this city, and had the rig up already to commence drilling. One charge was placed under the boiler, another under the engine-house, while the third was placed in the boiler, and the whole thing was blown into the smallest imaginable fragments. Everything was in the derrick preparatory to spudding, and all went up in the blast. The rig was over 3 miles from any residence and no one visited the scene until next morning. Mr. Leasure took the early train yesterday for Cleveland, not knowing the explosion had occurred. It was kept exceedingly quiet during the following day, and last evening scarcely any one knew what had been the cause of the explosion or the result. This makes the third rig blown up—recently one at Emlenton and one at Oil City, but this seems to have been the most complete job of the whole. F. E. Boden, of this city, is said to have an interest also in the well, and is also out of the shut-down movement, and he too is out of the city. It is unknown what the quantity was that caused each explosion, but it must have been an enormous charge to shake the windows 6 miles distant. James White, of this city, thinking it might be his boiler, took out his watch and found it to be just 10.54 when the first report was heard. In his language the whole rig was blown to —, boiler, engine, derrick, bull wheels, walking-beam, and all. Not even a good-sized piece of kindling wood was left.

[From the Bradford Era, March 28, 1888.]

A WEST BRANCH EXPLOSION.—A TEMPORARY STOP PUT TO OPERATIONS UP THE WEST BRANCH.—A BOILER AND OIL-WELL RIG OWNED BY F. M. LEASURE TORN TO PIECES BY A SERIES OF EXPLOSIONS.—THE CASE SURROUNDED WITH AN AIR OF MYSTERY.

About 11 o'clock Monday night three distinct explosions were heard by citizens in various parts of the town. Some thought a boiler had blown up, others attributed the shocks to thunder, while still others imagined the empty glycerine can was getting in its work. It was not until yesterday that the cause of the explosions became known. A boiler and derrick located on Fuller Brook, up the West Branch, had been blown to pieces.

F. M. Leasure holds, in conjunction with other parties, a leaseholder's right on certain lands in the Fuller Brook district. Some weeks ago he erected a rig in the vicinity of Freck's Mill, and let the contract of drilling the same to Messrs. Carmon & McKittrick. These gentlemen recently joined the Oil Well-Drillers' Union and suspended operations. Spudding has been started, but much work had not been done. The contract to drill, it is said, had been let to other parties. On Monday night some party or parties unknown visited the rig. About 11 o'clock the boiler and rig or portions of it took a trip skyward. As there were three explosions it is supposed that a number of shots were used. From the looks of things one shot was located under the boiler, a second under the jack-post, and a third under a corner of the derrick.

The first explosion was the loudest, and experts who heard the report at once declared that a boiler had gone up. Anyway the boiler and boiler-house was torn into fragments and scattered all over the adjoining country. The wreck of the boiler was complete in every detail. The jack-post was knocked out and the walking-beam tumbled from its position on the Samson post.

A corner of the derrick and a portion of the derrick floor were torn up and destroyed. Persons residing in the neighborhood of the explosion were very much startled. Windows were shattered and doors blown open. The supposition was that an unlucky shooter of glycerine had come to grief. When several of the frightened

inhabitants visited the scene of the explosion they discovered that the boiler and part of the derrick had been blown up.

Mr. F. M. Leasure left yesterday morning for Toledo, Ohio. A statement from an associate of that gentleman, and in reference to this matter, is to this effect: Mr. Leasure desired to drill a hole to the rock for the purpose of holding his lease, and that was his sole object in sinking this well. It was stated that he was acting in co-partnership with other parties in this city, but the latter deny that they held business relations with Mr. Leasure.

Oilmen when approached on the subject had various theories to advance, but the man or men who perpetrated the act are unknown, and the mystery surrounding the blow up will probably not soon be made public. As Mr. Leasure is out of town, his views on the case could not be obtained.

Q. Now, have you seen that statement before?—A. No.

Q. It appeared in the Daily Oil News. Is that a paper printed at Bradford?—A. Yes, sir; but I did not read it.

Q. After hearing that statement read of the facts in the case, does it agree with what was commonly reported as true in the community there?—A. No, sir; not altogether. I do not know of Mr. Leasure ever being invited to join the Well-Drillers' Union. I don't know of any such thing.

Q. You do not know of his being requested to join the Producers' Association, you mean?—A. I don't know anything about it.

Q. You do not know of him being asked to join your association?—A. No, sir. The parties reported this: That the boilers or engines were not blown up; it was the derrick.

Q. Two persons are named here, or a firm consisting of two persons, Messrs. Carmon & McKittrick. Do you know such persons?—A. Yes, sir.

Q. What is their business?—A. Contractors.

Q. For the digging of wells and cleaning out of wells?—A. Yes, sir.

Q. Can you give me their names?—A. I can give you Mr. Carmon's. We call him Cash Carmon. It is C. Carmon.

Q. Where does he reside?—A. In Bradford township.

Q. Not in the city of Bradford?—A. No, sir; not in the city. He resides in Bradford township.

Q. He lives in some village?—A. No, sir; he would get his mail in Bradford. His post-office is Bradford.

Q. It is asserted here that there were two other explosions, one at Oil City and one at Emlington. Are these the two you spoke of as occurring this winter?—A. Yes, sir.

Q. And they were also cases in which the machinery, or some part of it, was destroyed?—A. Yes, destroyed, I understood.

Q. You say that you are unable to state how much money has been paid by the Producers' Protective Association to the Well-Drillers' Union under this contract?—A. Yes, sir; I am, at present.

Q. Have you ever had any knowledge of it?—A. No, sir; not full knowledge of it.

Q. The money has not been paid to you as representing the Well-Drillers' Union?—A. No, sir. Do you mean money which I received?

Q. No. I mean before it was distributed among the members of the Well-Drillers' Union.—A. No, sir.

Q. This contract provides for a payment, or an advance, by the Producers' Protective Association to the Well-Drillers' Union of certain moneys?—A. That is it.

Q. My inquiry relates to that—whether you know what the aggregate has been?—A. I don't know; that is, I could not give you a statement now. I never figured it.

Q. Have you means of getting a statement?—A. I don't know whether I could or not.

Q. You see you are putting me in just this position, or rather you are putting the committee in just this position—you have asked the committee to excuse you from revealing the names of the officers of this association.—A. Yes, sir.

Q. Now, the fact as to how much has been paid under this contract I deem important, and I do not see that it will be feasible to excuse you from giving the names of the officers, unless you can show the figures, etc.—A. I presume they are in Mr. Goldsboro's books. You see there are different members that go on the producers pay-roll. It would be impossible for me to give a statement unless I got it from them.

Q. Has your organization a constitution?—A. Yes, sir.

Q. And by-laws?—A. We have a few by-laws. We have a constitution; yes, sir.

Q. Have you a copy of the constitution?—A. This is our constitution [handing the chairman a pamphlet].

Q. And this book you produce is the constitution and general laws regulating the entire Well-Drillers' Union?—A. Yes, sir.

Q. And its lodges?—A. Yes, sir.

Q. Has it been adopted by all your lodges?—A. It has.

The constitution is as follows:

Constitution and general laws of the Well-Drillers' Union.

[Compiled by the general executive board, and adopted by the Butler Central District Lodge at regular meeting, November 29, 1887.—Published by the general executive board.]

PREAMBLE.

Believing it to be to the advantage of all those interested as drillers, tool-dressers, or contractors in and about the drilling of oil and gas wells to combine and thus provide a body through whom to speak and act; and hoping that by united action our rights can be honorably protected and defended and we can secure just compensation as the reward of our efforts, and that we may provide a means to contract with the Producers' Protective Association, we have organized ourselves into an order to be called The Well-Drillers' Union.

CONSTITUTION.

ARTICLE I.

SEC. 1. This order shall be known as the Well-Drillers' Union.

SEC. 2. The object of this union shall be the elevation of its members, the protection of their rights, and the procurement of fair and equitable remuneration for their labor and capital, and to this end to provide a head with power to negotiate, conciliate, and contract for the members of the union.

ARTICLE II.

SEC. 1. The members of this union shall consist of contractors, drillers, and tool dressers actually engaged in the business, who shall make application for membership on a blank form, to be prescribed by the executive board, and pay an initiation fee of \$1. If elected, they shall sign this constitution and take an obligation of secrecy and fidelity, as prescribed by the general executive board.

SEC. 2. When an application is presented, a ballot shall be taken upon the application; if not more than two black balls appear, their application shall lie over until the next regular meeting; if three black balls appear the applicant shall be rejected and an application from him shall not again be considered until after the expiration of two months. The member or members casting a black ball or balls (when less than three black balls) shall give his or their reasons, in writing, to the president, who shall read the same to the members, but shall not disclose the name of the member, and shall destroy the writing immediately after reading. The member or mem-

bers giving reasons for casting black balls shall not vote at the meeting which reconsiders original ballot. When any member casts a black ball and fails to give his reason to the president, as before provided for, it shall be the duty of the president to declare the applicant elected.

SEC. 3. The executive board of any lodge shall have power for the first month of its existence to elect and initiate new members.

ARTICLE III.

The elective officers of this union shall be: A president, a first vice-president, a second vice-president, a recording secretary, a financial secretary, and a treasurer, who shall constitute an executive board of six, and shall be elected at the first meeting, and semi-annually thereafter at first regular meetings in July and January.

ARTICLE IV.

SEC. 1. The president shall preside at all meetings and perform such other duties as he may from time to time be called upon by the union to do, sign all orders for money upon the treasurer, appoint all committees, and all officers not otherwise provided for.

SEC. 2. The first vice-president shall preside in the absence of the president, and perform such other duties as the president would perform, if present.

SEC. 3. The second vice-president shall perform duties of first vice-president, during his absence and absence of president.

SEC. 4. The recording secretary shall keep a record of all meetings, shall draw and sign all orders on treasurer, shall conduct the correspondence of the lodge, shall have charge of the property of the lodge not otherwise provided for.

SEC. 5. The financial secretary shall keep a correct account between the members and the lodge, collect all moneys due the lodge and pay same over to treasurer, taking his receipt for same.

SEC. 6. The treasurer shall hold all moneys belonging to the lodge, and pay therefrom all orders signed by the recording secretary and the president, and keep an account of all moneys received and paid out, and shall give bond, the amount and bond to be approved by the executive board.

ARTICLE V.

SEC. 1. The executive board shall have a general supervision over the affairs of the union and perform such other duties as may be required of them by the union. They shall prepare and submit to the union a code of by-laws, which shall provide for and state time of regular meetings; how special meetings shall be called, and such rules and regulations as may be necessary for the government of this union not provided for in this constitution, and not inconsistent therewith; which by-laws, when adopted by two-thirds of the members present at a regular meeting, shall be equally binding as this constitution.

SEC. 2. The executive board of the union at Butler shall, until another is formed, as hereinafter provided, constitute the general executive board of the order, and shall be empowered to immediately proceed with the organization of unions in the following counties, viz: Washington, Allegheny, Clarion, Venango, Crawford, Warren, and McKean, of Pennsylvania, and Allegany County, N. Y., each of which in its own county, and in such territory as shall be by the general executive board attached to it, have jurisdiction.

SEC. 3. Each district as fast as organized shall elect one of its members of the executive board a member of the general executive board, who shall at once take his seat thereon, and as soon as three members have been added to the executive board of the Butler union, the board of nine shall not be increased, but as additional members are elected, commencing with the treasurer and in the inverse order of official precedence, said members of the Butler board shall be superseded until the board is full, when said general executive board shall be a distinct body from the Butler executive board.

SEC. 4. The general executive board shall call a general assembly, when a complete organization has been effected, and fix the ratio of representation to the same.

SEC. 5. The general executive board shall be the fiscal agent of the order and its executive arm, through which all dealings with the Producers Protective Association or with the public shall be transacted, and who shall have the charge, management, and control of all the business of the union; provided, however, that all agreements and contracts requiring the personal action of members for its operation shall be submitted for approval, and be approved, by two-thirds of the unions by a two thirds vote.

ARTICLE VI.

The appointive officers of this union shall be: An inspector, whose duties shall be to introduce candidates, examine all present at opening of each meeting, and report all present without the pass-word to the president, and perform such other duties as may be required by the union; a guard, whose duty shall be to guard the door, attend to all signals, to admit no one, except by direction of the president, and perform such other duties as may be required of him by the union.

ARTICLE VII.

Members may be expelled, or suspended, for violation of the constitution or by-laws, or neglect or refusal to comply with the rules or regulations or for violation of secrets of this union.

ARTICLE VIII.

The yearly dues shall be \$2, payable quarterly, in advance.

ARTICLE IX.

This union shall elect delegates to the general assembly, when the same is called, and be subordinate to said general assembly, when properly constituted.

ARTICLE X.

A benefit fund may be provided by the general executive board for the benefit of members out of employment. No member shall receive benefits who has not followed the business for one year previous.

ARTICLE XI.

This constitution may be amended by a two-thirds vote of members present and voting at a regular meeting; *provided*, that notice of the proposed change shall have been given at the previous regular meeting, and shall have been submitted to the general executive board, and have been by them approved.

GENERAL LAWS.

ARTICLE I.

SEC. 1. It shall be the duty of each member of the union to assist a fellow member in obtaining employment.

SEC. 2. Each lodge shall keep a list of the names of its members who may be temporarily out of employment, and furnish the same, when called for, to the general executive board, or to the executive board of any local lodge who may call for men.

SEC. 3. Should any member undertake to instruct an unskilled workman in any branch of this craft, it shall be the duty of any member to report such member to the executive board of the district where the offense is committed, and they shall at once notify him that such proceedings can not be tolerated; and should he still persist in doing so, charges shall be preferred against him in the lodge where he belongs, and he shall be expelled from the order.

SEC. 4. Any member who may be convicted of a felony in the courts of the Commonwealth shall be expelled from the order, and can not again become a member thereof.

SEC. 5. It shall be the duty of all members of the order to render the officers and committees proper aid in the discharge of their duties to the order.

ARTICLE II.

Membership.

SEC. 1. Membership shall date from time of initiation; admission by card or re-instatement and dues and other moneys shall be charged accordingly. No member shall be entitled to benefits unless he be in good standing.

SEC. 2. When a member or members of this order have violated the laws or constitution, charges may be preferred, in writing, signed by a member, stating the offense

clearly, when the officers shall investigate and take such further action as may be necessary in the case.

SEC. 3. A member making false charges against another shall be suspended for six months, and for a second offense he shall be expelled.

ARTICLE III.

Charges against officers.

Charges against the officers of a local or central lodge must be signed by one member of said lodge, in good standing, and be submitted to the general executive board, who shall at once notify the accused of the nature of the charges, and cite him to appear before them and answer to the same; if found guilty he may be fined, suspended, or expelled.

ARTICLE IV.

Nomination and election of officers.

SEC. 1. The regular election of lodge officers shall take place on the first regular meeting night in January and July, and shall be by ballot, separately. The president shall appoint three members not candidates, who shall act, one as clerk and two as tellers of election, who shall receive the votes and count them in presence of the lodge, and the clerk shall announce the result to the president, who shall declare the names of the successful candidates to the lodge. Candidates must be clear on the financial secretary's books up to and including night of election. The candidate receiving the highest number of votes shall be declared elected. Nominations shall be made one week prior to election.

SEC. 2. The officers-elect shall assume their respective duties at the next meeting night after election, when the retiring officers shall turn over to them all the books, papers, funds, etc., belonging to the union.

ARTICLE V.

Elective districts.

SEC. 1. This order shall extend over and embrace the following-named counties, which shall constitute elective districts in the order named: First district—Butler, and that part of Allegheny County north of the Ohio River; second district—Crawford, part of Warren, and part of Venango County; third district—balance of Venango County, except Emlenton; fourth district—Clarion, part of Armstrong County, and Emlenton; fifth district—part of Warren, Forest, and Elk Counties; sixth district—Washington and Greene Counties; seventh district—Allegheny County not in first district, Pennsylvania; eighth district—McKean and Cattaraugus County; ninth district—Allegany, N. Y.

SEC. 2. Each elective district shall have one central lodge, which shall have jurisdiction over that district, and may establish local lodges therein as hereafter provided.

Formation of local unions.

SEC. 3. An application for charter for a local lodge must be signed by thirteen members of the profession, of good moral character; must be addressed to the president of the central district lodge; by him submitted to the lodge for approval; and then, if approved, forwarded to the general executive board at Butler, who shall issue charter and send organizer to establish the lodge. The regular charter fee shall be \$4, which, together with organizer's fee and expenses, shall be paid to the organizer. Each member shall sign the constitution and comply therewith.

ARTICLE VI.

Representation.

SEC. 1. Each elective district shall be entitled to one member of the general executive board, as provided in section 3, Article V, of the constitution. Members of assembly shall be elected by the members of their respective district in lodge assembled, at such time as may be appointed by the general executive board, which election shall be fixed not later than the second week in January, and the corresponding date in July. The term of office of the first assembly shall be for six months. Election shall be by ballot,

SEC. 2. After election the delegates with proper credentials shall meet at the time and place designated by the general executive board, and shall transact such business as may be laid before them for the general good of the order.

Compensation.

SEC. 3. Proper provisions shall be made by each central lodge for the payment of transportation, and in addition each delegate shall be entitled to receive \$3 per day for each day's service while the assembly remains in session, and it is further provided that no session shall continue longer than five days.

General assembly, organization of.

SEC. 4. The delegates having met in the place appointed, the house shall be called to order by a member of the general executive board as speaker *pro tem.*, who shall appoint the three other members of said board, who must be present to act as a committee, who at once examine and report on the credentials of delegates present. A quorum of twelve shall constitute a legal house; that number being present and the credentials correct, they shall qualify at the speaker's desk; they shall then proceed to elect one of their number as chairman, who shall preside during the session, appoint a clerk, a doorkeeper, and such committees as may be needed.

General assembly, function of.

SEC. 5. The general assembly shall constitute the legislative body of the order; they may amend old laws and enact such new ones as may be needed from time to time. All such enactments must be approved by a two-third vote of the general executive board, and all measures of vital interest to the members of the order must be submitted to the lodges, as provided in section 5, Article V, of the constitution.

Eligibility.

SEC. 6. Candidates for assembly must be clear on the secretary's books, and must be fully qualified to perform the functions of the office to which they aspire, to the satisfaction of the lodge they represent.

ARTICLE VII.

Reports of secretaries.

The recording secretary of each lodge shall send a report every two weeks to the central district lodge of the number of strings of tools running belonging in his lodge and where working, the number of men working, the number idle, and how much work is being done by non-union men, and who for. And the recording secretary of the central district lodge shall forward such reports, along with his own, to the general executive board. Any lodge failing to report for two months shall be considered in bad standing, and may be deprived of special benefits for three months next ensuing.

ARTICLE VIII.

Benefit fund.

SEC. 1. In order to create a fund for the relief of sick or injured members, it shall be required that each member pay to his union 20 cents per month. Any member who is sick or out of work for one month shall be exempt from payment until he recovers or finds work.

Who may receive relief.

SEC. 2. The case of a member who may be sick, or who may have been injured, shall be reported to the nearest lodge, when the relief committee shall at once examine the case, and if found worthy they shall render such aid as may be required, reporting same to the lodge at next meeting night.

It is hereby provided that this law shall not apply until the first regular meeting night in January, 1888.

Traveling cards.

The general executive board shall prepare a traveling card, which shall be issued on order to all central and local lodges, and no lodge shall issue or receive any other card. Any member of the order going from one locality to another shall provide himself with a card; said card shall bear a certificate of membership. A member having such card may present the same for membership in any other lodge, and no lodge shall have power to reject such card. A member shall not be entitled to receive such card unless he is in good standing and clear on the financial secretary's books. The charge for a traveling card shall be 25 cents.

ARTICLE IX.

SEC. 1. Any officer elected failing to appear for installation shall be fined not less than 50 cents. Vacancies *pro tempore* may be filled by appointment of the president. When an officer, by reason of distant employment, finds it impossible to attend his lodge duties at least once a month, he may tender his resignation, and if accepted by the lodge, they must, at the next meeting night, elect a member to fill the vacancy during the unexpired term.

SEC. 2. Term of office shall be for six months, except in case of lodges organized after the second week in January, 1888. All such shall elect to conform hereto.

ARTICLE X.

Local lodges.

SEC. 1. Regular meetings shall be held by local lodges at least twice a month. Special meetings may be called by the general executive board. Twelve members shall constitute a quorum for special meeting; at such meetings no other business shall be considered.

ARTICLE XI.

Fines.

SEC. 1. Officers of central and local lodges failing to attend regular meetings of the lodge may be fined 20 cents; if they can show good reason the fines may be remitted.

SEC. 2. Any member of a lodge failing to report in person, or by card, at the last regular meeting in December and June, shall be fined 25 cents; satisfactory reason for failure may excuse.

ARTICLE XII.

Lodge supplies.

The general executive board, through the recording secretary at Butler, shall furnish, per order of the central and local lodges, all necessary books and blank forms.

ARTICLE XIII.

Funds.

The funds of each lodge shall only be used for legitimate purposes, and it shall be the duty of the treasurer to deposit in bank, in his name, as treasurer of such lodge, all moneys over \$30. All checks drawn against such deposit must be signed by him and countersigned by the president.

ARTICLE XIV.

Recording secretary, compensation of.

SEC. 1. The recording secretary shall receive \$25 per term for his services, to be paid quarterly.

SEC. 2. Any recording secretary neglecting to prepare and forward the monthly report of his lodge, or failing to perform his duties, shall be fined \$1.

SEC. 3. Central and local lodges shall have power to make such by-laws as they deem necessary for their government, not conflicting with the constitution and these general laws; and these laws shall not be altered or amended except by the general assembly, and approved as provided in Art. II of the constitution,

RULES OF ORDER OF THE SUPREME LODGE AND LOCAL LODGES.

Rule 1. The president having taken the chair, the officers and members shall take their respective seats, and at the sound of the gavel there shall be a general silence.

Rule 2. The president shall preserve order and pronounce the decisions of the lodge on all subjects. He shall decide questions of order without debate, subject to an appeal to the lodge by three members; on which appeal no member shall speak but once, when the question before the lodge shall be: "Shall the decision of the president stand as the judgment of the lodge?" which question shall be taken by the lodge.

Rule 3. During the reading of the minutes, communications, and other papers, or when a member is addressing the chair, silence shall be observed in the lodge-room.

Rule 4. Any member who shall misbehave himself in the meetings of the lodge, disturb the order or harmony thereof, either by abusive, disorderly, or profane language, or shall refuse obedience to the presiding officer, shall be admonished of his offense by the president, and if he offend again he shall be excluded from the room by the reporter for the session and afterwards dealt with as the by-laws prescribe.

Rule 5. No member shall be interrupted while speaking, except it shall be to call him to order or for explanation.

Rule 6. If a member, while speaking, be called to order, he shall, at the request of the presiding officer, take his seat until the question of order is determined, when, if permitted, he may proceed.

Rule 7. Each member, when speaking, shall be standing, respectfully address the president, confine himself to the question under debate, and avoid personalities or indecorous language.

Rule 8. If two or more members arise to speak at the same time, the president shall decide who is entitled to the floor.

Rule 9. No member shall speak more than once on the same question, and not longer than three minutes, until all who wish to speak have had an opportunity to do so, nor more than twice without permission from the president.

Rule 10. No motion shall be subject to debate until seconded and stated from the chair; it shall be reduced to writing at the request of any two members.

Rule 11. When a question is before the lodge no motion shall be in order, except to close, to amend, to take a recess, to lay on the table, or commit, to adjourn, to divide, to postpone indefinitely, which motions shall have precedence as stated.

Rule 12. On the call of three members debate shall close and a vote be taken on the subject under debate; the member making the motion shall have the right of the closing debate.

Rule 13. Any member may call for a division of the question, when the sense thereof will admit it. A motion to strike out and insert shall not be admissible, except at the option of the mover.

Rule 14. No motion or proposition upon a subject at variance with the matter under consideration shall be admitted under cover of amendment. Before putting the question the president shall ask, "Is the lodge ready for the question?" when, if no member arises to speak, he shall arise and put it. After the president has risen to put the question no member shall be allowed to speak upon it. While the president is putting the question or addressing the lodge no member shall interrupt.

Rule 15. All questions, unless otherwise provided for, shall be decided by the majority of votes cast.

Rule 16. Communications may be presented through a member or by the presiding officer, and must be entered in brief in the minutes. The member first named on a committee shall act as chairman until another is chosen by the committee.

Rule 17. A committee can not be discharged until all debts contracted by it have been paid. On call of committees, all the reports thereof, signed by a majority concurring therein, shall be read from the recording secretary's desk by a member of committee or by the secretary.

Rule 18. When a motion is postponed indefinitely it shall not be acted on during that or the next stated meeting. A motion to reconsider may be received, if made by a member who voted with the majority. A motion to lay on the table shall be put without debate.

Rule 19. A motion to adjourn is in order after the regular business of the lodge is concluded. Questions of order not herein provided for must be determined by Cushing's Manual.

ORDER OF BUSINESS.

1. Opening the lodge.
2. Calling the roll of officers and members.
3. Reading minutes of previous meeting.
4. Calling list of absentees at previous meeting.
5. Payment of dues, fines, etc.

6. Proposals of candidates.
7. Report of committee on candidates.
8. Balloting for candidates.
9. Initiation of candidates.
10. Call for communications.
11. Are any sick?—out of work?
12. Does a brother know of work?
13. Reports of standing committees.
14. Report of recording secretary.
15. Report of financial secretary.
16. Accounts payable.
17. Unfinished business.
18. New business.
19. Good of the order.
20. Report of the treasurer.
21. Adjournment.

By Mr. BUCHANAN :

Q. This book that you produce purports to be the constitution and by-laws of the association known as the Well-Drillers Union?—A. Yes, sir.

Q. And you have stated that the persons composing that were the persons engaged in the drilling of wells?—A. Yes, sir.

Q. Is membership in this union limited to those who are engaged in that work?—A. Yes, sir; supposed to be.

Q. And is the membership in this union limited to those who are engaged in working in that business, or does it also extend to those who have contracts for the drilling of wells?—A. It is limited to all men who are contractors, drillers, or tool-dressers, and more especially to those who worked in 1887—who done work in the year 1887, or one year previous to 1888.

Q. What I wish to ascertain is, whether the membership is limited to the men who actually do manual labor or not?—A. A contractor, if he owns tools and ropes, is entitled to go into the order if he has not worked on wells. If he employs men and hires them and takes contracts for drilling wells, he is entitled to go into the order.

Q. I will ask the question in another form. Is the membership in this union limited to employers; are the workmen employed by those employers eligible to membership in this order?—A. Yes, sir; those who are drillers or tool-dressers, who work on wells or clean them out.

Q. The contractors you speak of are men who take a contract for drilling a well?—A. Yes, sir.

Q. And in the execution of that contract, they employ workmen, do they not?—A. Yes, sir.

Q. Are those workmen eligible to membership in this order?—A. Yes, sir.

Q. And the contractor as well?—A. Yes, sir.

Q. So that employer and employé, both, when engaged in the business of drilling wells or dressing tools, are eligible to membership?—A. Yes, sir.

Q. And are actual members?—A. Yes, sir.

Q. From both classes?—A. Yes, sir.

Q. Since the organization of this order, so far as you have testified as to your knowledge of such organization, has the drilling of wells increased or decreased as to number?—A. Since the organization was started?

Q. Yes.—A. To the best of my belief it has increased.

Q. What necessity was there found for the organization of this union?—A. The necessity was that this oil, that I spoke of before, was set aside

for the laboring class, and we organized for that purpose. There was a class of men who were not able to keep themselves. The work in the oil countries has been very light for a couple of years. On account of the low price of oil there has not been much doing, and what has been doing was cheap, and many men have been shut off from time to time, and are very poor, and are unable to keep themselves. We organized in order to get this, and at the same time to stand in in good faith with the producers and get their work when it was offered.

Q. How did the organization of these men into the union facilitate their procuring their share of the oil that had been thus set aside?—A. We consulted with the producers.

Q. Having an organization, you had your officers who could attend to that matter collectively for the whole body?—A. Yes, sir.

Q. Did it in any other way facilitate the men in procuring their share of the oil thus set aside?—A. Not that I know.

Q. Suppose this organization had not been formed, how would a man, thrown out of work, as a driller or tool-dresser, secure that portion of the oil?—A. That I cannot tell; I do not know.

Q. Do you know whether this organization was formed at the suggestion of the Standard Oil Company for the purpose of making it more convenient for them to transfer to the workingmen their share of the oil?—A. No, sir; I do not know.

Q. You said something about standing in with the producers. Please explain more fully to the committee what you mean by that?—A. I meant that we would stand in good faith with them; we would help them through; we thought it was a good cause.

Q. What was the cause that you thought was good?—A. Producers had organized and shut down to decrease the surplus oil.

Q. You say that it had organized to shut down. Please explain how that shut-down was in fact operated?—A. I do not know; that relates to the producers.

Q. You saw what went on in that section; what went on after the shut-down had been ordered?—A. They stopped drilling; that is all I know about it.

Q. Did they stop the production of any wells in any way?—A. I understood so.

Q. They could not stop the flowing wells?—A. I do not know as to flowing wells. There are no flowing wells near our section of the country now.

Q. They are all pumping-wells?—A. There may be a few flowing wells; but as near as I can understand it, they shut the production off of these pumping-wells and let the others flow.

Q. And your observation was that about the time of this shut-down the pumping stopped in that section?—A. To a certain extent.

Q. Did you understand the purpose of that shut-down?—A. As near as I could understand it was to cut off the production and to use up the surplus oil.

Q. Had oil reached a low figure?—A. I should think it had, about 60 cents or somewhere about there.

Q. Per barrel?—A. Yes, sir.

Q. And the purpose of the shut-down, the reduction of the surplus, was, then, to increase the price of oil?—A. Not that I know of.

Q. Why did they wish to stop the accumulation of the surplus?—A. That is further than I can tell. I am not a producer.

Q. Did you understand that they shut down for the purpose of lowering the price of oil?—A. No, sir; I am not very much acquainted with

it; I could not explain it thoroughly, but I will give as near an explanation as I understand.

Q. Very well.—A. There was about in the neighborhood of 28,000,000 barrels of oil. It cost a good deal to carry it, a good deal for storage, and a good deal of money. It was gambled on in the market every day; it gave the controlling interest to "bears" and made "bears" a great power to sell oil. The "bear" interest became so great that it was hard to keep oil up. It fluctuated very much. It got down from 90 to 60 cents and stayed there awhile. They might work it up again but it would come back again. But as near as I could understand it, it was to get a greater price for oil; that is as near as I know; I am not a producer; that is as near as I understand it.

Mr. BUCHANAN. I am asking for your general information upon the subject. I understand that you do not understand the inside workings of the Producers' Union. [Laughter.]

By Mr. SMITH:

Q. Have you any other unions outside of the districts you have named?—A. No, sir.

Q. The districts you have named are all in Pennsylvania?—A. No, sir; one in New York.

Q. I understand that one of the objects of the union is to prevent others not belonging to the union from boring wells in those districts. Is that so?—A. To prevent others?

Q. Yes.—A. No, sir; not anything of the kind.

Mr. SMITH. I thought the chairman had read something to that effect.

The CHAIRMAN. I read what the contract contained, which is as follows:

There shall be a committee in each district, selected by the executive board of the local lodges, whose duty it shall be to keep a lookout for, and to endeavor to prevent, the drilling of wells.

By Mr. SMITH:

Q. Exactly. You are aware of that agreement?—A. Yes, sir.

Q. It says, "prevent the boring of wells."—A. That is to prevent, as near as we can, by good talk to some man to get him to join our union.

Q. Suppose he will not join the union?—A. Then, sir, we would let him go and drill all he wants to. We have no way of stopping him only by good, reasonable talk. We have ignored anything else of the kind always.

Q. How did it happen to these parties that after driving and drilling wells and putting up their machinery they found their machinery, etc., blown into splinters?—A. We are not accountable for that; I do not know anything about it.

Q. And yet you say you are an oath-bound secret society?—A. Yes, sir.

Q. And you are not permitted to divulge the names of your officers?—A. No, sir.

By the CHAIRMAN:

Q. Do I understand you to say there has been an increase in the amount and number of wells dug and cleaned out in that country since this organization has been formed?—A. I think there has been since the time we have organized.

Q. And yet you have not had a day's work in that time?—A. No, sir; not around our country. They have in Butler County and Washington County. I am in McKean County.

Q. There has not been in your county?—A. No, sir; not in our county.

Q. Where has this increase that you speak of been?—A. In Butler and Washington Counties.

Q. When did the increase occur?—A. I think the last couple of months; the last month or two months.

Q. There has not been increase enough to bring back the production of oil to anything like the quantity that was produced a year ago, has there?—A. I have not the figures, but I do not believe it has, to the best of my ability.

Q. You understand that by this contract and by the terms of the constitution and by-laws here one object for the formation of those two associations was to restrict production, do you not?—A. Yes, sir.

Q. Then the increase in the boring of wells has not increased the production?—A. I do not know that it has; I have not the figures.

Q. Now, are there various kinds of labor employed about this drilling of wells?—A. There are rig builders.

Q. Do you not employ some cheap labor?—A. Not on drilling; no, sir.

Q. In any way connected with the drilling of wells?—A. No, sir.

Q. You have no labor of that kind employed at all?—A. No, sir; it takes four men to build a well.

Q. To some extent they are skilled mechanics?—A. Yes, sir.

Q. What was their rate of wages in the year 1887?—A. Three dollars and \$3.50; some got \$4 a day—some drillers.

Q. After the drilling was done and the wells were pumped, was there then employment for ordinary day labor—unskilled labor—in connection with the wells?—A. Pumpers.

Q. Those people were not admitted to your union?—A. No, sir.

Q. About what proportion of the men who had the material necessary to drill and clean out wells, that were occupied in that business prior to the 1st of December, 1887, has since that time become members of this association of yours?—A. I should judge there was about four-fifths of them; not more.

Q. You think that there are twenty men out of every hundred that were employed and were actually engaged in that business before the 1st of December, 1887, who are not in this association?—A. I think probably there are; for this reason, that Ohio was drilling.

Q. I am talking about your field.—A. Those men have come back.

Q. They have come back into your field, have they?—A. Yes, sir; from Ohio.

Q. Have they joined your association?—A. No, sir; we could not take them in and give this money that was set aside for the workmen, because they were not out of employment at the time of the shut-down.

Q. What were they doing?—A. Drilling.

Q. Where?—A. Butler County and Washington County.

Q. Then this increase of the drilling in Washington and Butler Counties is being done by men outside of your organization?—A. Mostly altogether.

Q. Is it being done by members of the Producers' Association?—A. That I do not know. I think they are outside men; I believe they are; of course I can not testify positively. I do not really know who are producers in the association and who are not.

Q. I see that the membership of this union is restricted to the persons engaged in business in the light oil-fields. That means petroleum that can be fit for illuminating purposes; is not that it?—A. Yes, sir.

Q. Is there any portion of this field that you have spoken of that

produces petroleum which is not fit for use?—A. I think there is a little piece.

Q. Where?—A. Right below Franklin. I think there is a little strip there that produces heavy oil; just how much I do not know.

Q. You have referred to the process of cleaning out a well. Please explain what that is.—A. After a well is drilled there is what is called "short sand." When the well is cleaned out and pumped the sand caves in. In pumping the well it shakes the sand and it caves in. Then they go to work with a tube and ropes to clean it out again. They have to put the tube in and clean out the short sand to keep the oil clean. After they clean the sand out of the well the oil keeps good.

Q. I would like to know what you understand by this clause in the agreement:

This agreement, as to benefits and advances and the stoppage of the drill, shall continue in full force until the 8th day of September, 1888.

Now, does that mean that after the 8th day of September, 1888, you shall be at liberty to drill?—A. Yes, sir; as I understand it.

Q. Without losing any part of the advantages which you are to have under this agreement?—A. Yes, sir.

Q. Now follows this clause:

But may be terminated at any time upon the party of the first part—

That means the Producers' Association—

giving ten days' notice to the party of the second part, and no obligations to pay or make advances shall exist after the delivery of said notice.

What do you understand that clause to mean?—A. As near as I understand it, when they can not raise the money on this oil they notify us, ten days in advance, and they quit paying; that is as it is understood by us.

Q. Do you understand that if they gave that notice that they also are relieved from the obligation to pay at the end of the term of the contract, September, 1888?—A. Yes, sir; under these circumstances, providing there is no more money out of this oil to pay. That is the way I understand it.

Q. So that as to that oil the chances of making any profit on it, over and above the 62 cents, are to be taken by your association?—A. Yes, sir.

Q. And not by the Producers' Association?—A. Not by the Producers' Association.

Q. Is there anything in that contract which will prevent them from giving you that notice at any time, whether there is a profit or not on the oil?—A. Not that I know of.

Q. You understand, then, that they are at liberty to give the notice at any time, even though the oil should be above 62 cents?—A. Yes, sir.

By Mr. WILSON:

Q. Mr. Webster, as I understand, this union of yours was formed on the 8th of December last?—A. Yes, sir.

Q. Prior to that time you had no organization of this character?—A. No, sir.

Q. At that time the drilling and the pumping were both suspended, were they not?—A. Yes, sir.

Q. There was a shut-down, was there not, at that time?—A. Yes, sir.

Q. By the Producers' Association?—A. Yes, sir.

Q. And you, having information that they had set apart a large quantity of oil to pay the workmen during the time that they were

shut down, formed this union in order to secure the full benefit of that and a fair distribution of it?—A. Yes, sir.

Q. That, I understand, is your testimony?—A. Yes, sir.

Q. You left it to the Producers' Association to decide when they should start again?—A. Yes, sir.

Q. And your object, as you stated, was to stand in with them and both parties work together to curtail the production of oil, and thus increase the market price of it?—A. No, sir; I did not say "increase the market price;" you misunderstood me.

Q. I do not mean to say that you ever said that, but I am getting at my understanding of your contract with the Producers' Association to limit the production of oil, and thus to make a better market of it all around.—A. Yes, sir.

Q. Mr. Webster, before this organization of yours was formed, in case of a shut-down how were the rights or the interests of workingmen taken care of?—A. There was never anything paid. There never was a very lengthy shut-down before; three months, I think, was the longest that I can remember.

Q. They had been shut down for as much as three months before this time?—A. Yes, sir; I think so.

Q. And during that time the men were thrown entirely out of employment?—A. No, sir; not all out of employment; there was some work in the field.

Q. But the great body were?—A. Most of them.

Q. How were they supported during that time?—A. They supported themselves.

Q. Was there oil set apart for them?—A. No, sir.

Q. How did you get information that the Producers' Association proposed to set apart oil for the assistance of the men?—A. I saw it in the papers.

Q. Notice was given in the papers, was it?—A. Yes, sir.

Q. And you organized, then, in order to secure that in an orderly way?—A. Yes, sir.

Q. And also, as far as possible, to cover the field and prevent any one breaking in upon your association and undertaking this work?—A. That is, by good talk; talking to them to get them to join our association.

Q. I am not going into the question further than that at present. You have stated already the three classes of workingmen that are included in your union. How do the other working people that are engaged on these wells, when active drilling and pumping is going on, get any relief during this period of suspension?—A. I do not know anything about the producers; I understand that they are making some arrangements, but what I do not know.

Q. If I recollect aright, the agreement provides that the second million barrels of oil shall be primarily used for that purpose, and you are to get the residue of the profits on that after the other laboring people are taken care of?—A. Yes, sir.

Q. Is there any organization among them by which they receive their share of the profits?—A. Not that I know.

By Mr. BUCHANAN:

Q. What did you say was about the aggregate membership of your union?—A. I do not know positively, but I think it is between 2,200 and 2,400.

Q. What would be your ratable proportion of that million barrels?—

A. It would be pretty hard to say; I could not figure it; only what they get for it.

Q. I am not asking about the price; I am asking about the quantity. What would be your ratable proportion of the million barrels of oil not in money?—A. If you will allow me to explain, I don't get any of that oil. It is simply set aside, as I understand, at a price of 62 cents a barrel, and we get the profit above that.

Q. What would be your ratable proportion of the profits, above 62 cents, on that million barrels of oil—I mean your organization?—A. I can not figure it.

Q. Who else would share in it?—A. In the two millions?

Q. In the profits on that million barrels over 62 cents?—A. The other million—why the pumpers, as I understand—the rig builders.

Q. About how many pumpers are there?—A. That I do not know.

Q. Can you approximate how many?—A. No, sir; I can not give any idea. I do not know what pumpers the producers have discharged on account of the shut-down; I have never heard of any estimate.

Q. Can you give me any approximation of the proportion of the profits over 62 cents a barrel on that million barrels that would come to the 2,200 or 2,400 men comprising your order?—A. If there was a price set on it above 62 cents?

Q. I am not speaking of the price; I am speaking about the proportion. How much of it would come to your order?—A. I can not say, because I do not know the number of men outside of us.

Q. Then what means have you to guard against being cheated in this provision?—A. We have not any. We have done business with them—at least I have, as far as I am concerned; that is all I can answer for—for twenty years, since 1865, and I have never got cheated by one of them yet.

Q. You generally got your share in one way or another?—A. I never had a contract that I ever drew with them in my life. I never had a producer to try to beat me.

Q. Do you know whether there is any one in your order who is possessed of the information as to the proportion you ought to receive?—A. No, sir; I do not know.

Q. Do you know who receives this money in behalf of your order?—A. The treasurer.

Q. Are you willing to give his name?—A. I can not, sir.

Q. Why?—A. Because I am obligated not to.

Q. Obligated how?—A. Obligated in that order.

Q. What is the necessity of this order being oath-bound?—A. It is simply a secret organization of laborers. We intend to exist after this is over.

Q. Then it is formed for purposes other than you have named?—A. It is for the purposes of protection to labor, the same as any other labor organization.

Q. So far as the purposes you have named are concerned you know of no reasons why it should be oath-bound, do you? So far as it is organized for the purposes of receiving its quota of profit on oil there is no necessity for any oath?—A. I think I mentioned in the first part of my statement that they were organized for that, and for the purpose of getting better prices when this was over.

Q. When what was over?—A. When this shut-down was over; when business was resumed again and we got into drilling.

By the CHAIRMAN:

Q. I think you testified that you were a contractor?—A. Yes, sir.

Q. How many men did you employ?—A. According to the difference in the times. For the last three years I have not employed over three men at once.

Q. So that you had only one gang?—A. Yes, sir; and worked myself.

Q. Before that time how many did you have?—A. I have at certain times employed as many as twenty men; it would depend upon the amount of work I had to do.

Q. The amount of work has diminished there as the price of oil has diminished?—A. Yes, sir; it has been falling off for the last three or four years or more. A few years I think we had over 400 wells drilling in the oil field. For the last couple of years I do not think there has been over 140 at the outside at any one time.

Q. About how many are they drilling now?—A. I think it is in the neighborhood of—I can not say positively; I did not see the last monthly statement; I think it is in the neighborhood of 60 or 70 wells drilling altogether.

Q. And of those how many are being drilled by persons connected with your union?—A. I do not know.

Q. Do you know of any that are being drilled by persons connected with your union?—A. Not that I am sure of; not in our part of the country. We have men working on gas wells. There may be some in Butler County; I do not know; I do not think there is.

Q. This surplus oil that you talked about was oil belonging, as you understand it, to the Standard Oil Company in its tanks at different points?—A. In the United oil-tanks.

Q. That is, in the Standard Oil Trust organization?—A. I suppose so; I do not know. It is in certificates; certificate oil.

By Mr. WILSON:

Q. These wells that you say are being dug in the counties outside of your oil field by the men from Ohio are for other than the Producers' Protective Association?—A. I think they are; yes, sir.

Q. They are keeping their faith with you, you suppose?—A. I believe so.

Q. Let me ask you what you understand by this; it is one of the by-laws of your union:

SEC. 3. Should any member undertake to instruct an unskilled workman in any branch of this craft, it shall be the duty of any member to report such member to the executive board of the district where the offense is committed, and they shall at once notify him that such proceedings can not be tolerated; and should he still persist in doing so, charges shall be preferred against him in the lodge where he belongs, and he shall be expelled from the order.

A. That is the law there. We tried to amend that, and it may be after awhile. A good many did not want the unskilled labor in the union, according to the amount that has been lying idle for the last few years.

Q. Then you took a pointer from the Protective Association; you united with them to diminish the supply of oil to go upon the market, and you united among yourselves to diminish the supply of labor in your particular kind of work?—A. We did not diminish the supply of labor.

Q. I mean the labor employed in your particular line of work?—A. That was looked at in this way: It has been hard work for men to get work for the last two years in the oil country. Many good men have sat still and have gone out trying to get work, and the men have gotten so disgusted with it that they made that law to protect them for a while

until some of them dropped out. It was necessary. It was talked over several times among us and we thought of changing it; a good many thought that it was unnecessary to change it for a year or so.

Q. That is exactly in the line of your other agreement?—A. These are our own laws.

Q. Is it part of your agreement among yourselves?—A. Yes, sir.

Q. You first agreed with the producers to stop the production of oil in order to diminish the supply of oil in the market?—A. We have nothing to do with the production.

Q. You agree with the producers that you will stop production; that you will not hire out to anybody else to drill or pump?—A. We can pump, but not drill.

Q. You agree with the producers, as I say, to stop the production of oil; then you agree among yourselves to diminish the supply of labor in your kind of work?—A. Yes, sir.

By Mr. BUCHANAN:

Q. Would you to-day take an advantageous contract to drill a well for a firm or for any person that was not a member of the Producers' Association?—A. No, sir; not without a permit from the Producers' Association.

By the CHAIRMAN:

Q. Do I understand you that you did not intend by this agreement to increase the price of oil?—A. As far as we are concerned we did not intend anything hardly; we never thought of it, to tell the honest truth. [Laughter.]

Q. You expected to be paid this money, did you not?—A. Certainly.

Q. At the time this contract was made what was oil selling for per barrel?—A. At that time I think it was somewhere pretty close to 80 cents; I forget exactly what it was, but I think it was somewhere close to 80 cents.

Q. How was it when the Producers' Association made their contract?—A. I think it was between 60 and 70 cents; I forget.

Q. The only way you could get any money out of it was by having the oil sold at more than 62 cents per barrel?—A. Yes, sir.

Q. So that you did understand that an increase above 62 cents per barrel was necessary in order that you should get any money, did you not?—A. It looks so.

By Mr. BUCHANAN:

Q. Does the 62 cents per barrel include the barrel also; the barreling?—A. The Standard Oil Company issues certificates.

Q. I am not speaking of certificates. You spoke about 62 cents a barrel; do you mean 62 cents for so much oil, or 62 cents for so much oil including the barrel?—A. Just the oil.

By the CHAIRMAN:

Q. This oil was, as you understand it, in tanks and storage?—A. In both.

Q. You spoke of a barrel of oil; you mean 42 gallons?—A. Yes, sir; I think that is a barrel.

Q. Did you state which of these district organizations you are a member of?—A. Yes, sir; it is Bradford; it is McKean County, Pa., and Cattaraugus County, N. Y., eighth district.

At this point the committee went into executive session.

After ten minutes spent in executive session the doors were re-opened, and the committee resumed its investigation.

TESTIMONY OF I. N. BENNETT.

I. N. BENNETT sworn and examined :

By the CHAIRMAN :

Q. Where do you reside ?—A. Bradford, Pa.

Q. Are you a member of this Well-Drillers' Association ?—A. I am.

Q. Connected with which district ?—A. The eighth.

Q. What is your business ?—A. Contractor and driller.

Q. For how long a time have you been in the business ?—A. Since 1864.

Q. How many men do you employ in your business ?—A. It is owing to what time it is. Within a year or so I have not employed more than four men at a time.

Q. That is, one gang ?—A. Yes, sir ; and worked myself, too.

Q. Prior to that time had you employed more ?—A. Oh, yes ; I was running five or six at a time.

Q. You produced this contract that was put in evidence to-day ?—A. Yes, sir ; I brought it here from the lodge where it belongs.

Q. That contract is an original, as I understand it ?—A. That is an original contract.

Q. It was not executed by the officers of either association ?—A. I do not think it is.

Q. It is not signed by them ?—A. No, sir.

Q. There is no copy that is signed or sealed that you know of ?—A. No, sir.

Q. It was adopted by your various lodges under your rules ?—A. Adopted by my lodge.

Q. Your understanding is that it was adopted by the requisite number of lodges to make it binding upon this union ?—A. Yes, sir ; I understand it that way. I thought you meant had all the lodges adopted it.

Q. It is the contract under which the arrangement between your union and the Producers' Association is being carried on ?—A. Yes, sir.

Q. Have you done any work since that contract was signed ?—A. No, sir ; I have not.

Q. Not at all ?—A. Not at all.

Q. Nor any of the men in your employment ?—A. Nor any of the men in my employment that I know of. Now, I could not answer that ; it is going too far. I do not know whether some of them are in the union or not.

Q. I mean the men who were working for you directly before that.—A. Directly before that, I could not say. They are scattered off and are in different sections of the country.

Q. They are gone so that you do not know where they are ?—A. Yes, sir.

Q. Have any of them remained in Bradford ?—A. There is one in a Bradford.

Q. And he is a member of your lodge ?—A. He is a member of our lodge.

Q. And has he done any work since that contract was adopted ?—A. He has.

Q. For whom ?—A. For William Barnstein.

Q. Is he a contractor ?—A. Yes, sir.

Q. Was that done by permission of the lodge ?—A. Yes, sir.

Q. How much work did he do ?—A. Drilled one well.

Q. Anything more that you know of?—A. No, sir.

Q. Have you had any opportunity to go to work in drilling?—A. No, sir.

Q. Nor cleaning out a well?—A. No, sir.

Q. No application has been made to you?—A. None whatever.

Q. By anybody inside or outside of the association?—A. Neither inside nor outside.

Q. Have you received any money from this fund created by this agreement?—A. Yes, sir.

Q. How much have you received?—A. Seventy-five dollars, I think.

Q. And up to what time was that a payment of what was due you?—A. The 10th of March, I believe.

Q. Was that in full up to the 10th of March?—A. Yes, sir.

Q. That is, you have been idle, then, seventy-five days?—A. Yes, sir; seventy-five days.

Q. Since that time you have received nothing?—A. Since the 10th of March.

Q. Was that the first payment made under the contract?—A. No; we got paid the 10th of January, the 10th of February, and the 10th of March, which made the \$75.

Q. You got \$25 in each month?—A. No, sir; I believe I got \$15 one month, \$29 the next, and \$31 the next—I think it was.

Q. So that you were paid irregularly?—A. It was according to the number of days in the month.

Q. When did you join?—A. The 17th of December, I think.

Q. Was that the time your lodge was formed?—A. Yes, sir.

Q. So that you were one of the original members of it?—A. Yes, sir.

Q. Do you know these gentlemen, Messrs. Carmon and McKittrick?—A. I am not acquainted with them; I have heard of them.

Q. Are either of them members of your lodge?—A. Carmon is, I think; I could not say for certain.

Q. Do you know when Carmon was taken into the lodge?—A. I could not say.

Q. Within what month was it?—A. I would have to say in February; I do not know positively; I could not say within what month; I have not paid any attention to that.

Q. You have heard of this explosion on the West Branch, as it is called?—A. Yes, sir.

Q. Did you hear the explosion itself?—A. No, sir.

Q. There is a clause in the contract providing that "any member of the Well-Drillers' Union who shall assist the above-named committee in the shut-in movement shall be entitled to actual expenses when so engaged;" do you know of any case in which that provision of the contract has been applied in any way?—A. Only that we have a man in that business.

Q. A man appointed from among your membership to reason with people who insist on digging wells?—A. Yes, sir.

Q. His duties do not require the use of nitro-glycerine?—A. No, sir.

Q. He is appointed under the provision which authorizes or requires the appointment of a committee or a member to keep a lookout and endeavor to prevent the drilling of wells?—A. Yes, sir.

Q. With the exception of appointing that member, has any action been taken by your lodge, or by you individually, or by anybody else, to your knowledge, to prevent the drilling of wells?—A. No, sir.

Q. Did you ever know of a case of any man's derrick and apparatus

being blown up in the oil region before the formation of this association?—A. I could not say that I do.

Q. You understood before you went into this association that a certain amount of oil had been set apart, the profits on which above 62 cents were to be employed to pay the laborers who were thrown out of employment by the shut-in?—A. I understand there were 2,000,000 barrels of oil set apart for the labor.

Q. You understood that what was set apart of that million barrels was the difference between 62 cents a barrel and what it might be sold for?—A. I could not say positively about the 62-cent part after I went into the organization. The other I had heard of.

Q. Had you talked with anybody about that matter before you went into the organization?—A. About joining the association?

Q. Yes; or forming it?—A. No one, any more than among ourselves.

Q. Those of you who were engaged in the business talked it over among yourselves?—A. Yes, sir.

Q. And you understood that in some way the benefit of these 2,000,000 barrels of oil was to be obtained through the formation of this association, did you not?—A. Yes, sir.

Q. Did you also understand that the Producers' Association had made a contract by which they would reduce the amount of oil brought to the surface, the production of the oil?—A. I did not understand the producers had the contract with any one.

Q. Did you understand that they had an arrangement among themselves by which that was to be done?—A. Nothing more than I would hear spoken of on the streets.

Q. That was one of the subjects that was discussed in connection with these 2,000,000 barrels?—A. Yes, sir.

Q. You also comprehended that the only way they could do that was by stopping boring wells and stopping cleaning out, did you not?—A. Yes, sir.

Q. Now, this particular business of drilling wells, or cleaning out wells, requires some skill and experience, I take it?—A. Yes, sir; it does.

Q. How many men, as you understand, are now in this union?—A. Anywhere from 2,200 to 2,400; I could not tell exactly.

Q. What proportion does that bear to the whole number of persons skilled and able to perform that labor in the field covered by that agreement?—A. That ought to be 90 per cent.; it ought to have been the whole of them for the amount we have got in; but we have not got them all in. Some are in that probably ought not to be.

Q. You think the actual number of men that are skillful enough to do this work in the entire country there does not exceed 2,400 men?—A. Not just around there; but if you take them all through the country, of course there are more.

Q. I mean in the territory that your union operates in?—A. I think it ought, when we had no more than four hundred wells driven.

Q. Can you explain to me why it was, if you have not been doing any work since this contract was made, that you were paid only \$15 on the 10th of January?—A. Yes, sir; because we had not been formed before that; that is the only reason I can give you.

Q. Since that time you have been paid at the rate of a dollar a day?—A. We have been paid at the rate of a dollar a day from the time we organized our lodge.

Q. What rate of wages did you get before that? What was the rate of wages before that for that kind of labor?—A. The last work I was doing was cleaning out wells, running my own tools. Of course I would get more wages than a man working by the day. I was getting \$12 a day for the use of the tools and myself.

Q. What did you pay the men?—A. I did not have any men. I did the work myself and they furnished one man.

Q. You knew what other people were getting; you knew the rate of wages generally through the district there?—A. Yes, sir.

Q. What was it?—A. They were getting \$3.50 a day; tool-dressers were making \$2 a day; some drillers were getting more than that and some less; and some tool-dressers were getting more and some less.

Q. By the tool-dressers you mean the men whose business it is to repair those tools?—A. To sharpen them.

Q. You owned your own apparatus?—A. Yes, sir.

Q. Boiler and pump?—A. No; I did not have to have them; just the tools and ropes.

Q. The boiler and pump were furnished by the owner of the well?—A. Yes, sir.

Q. You understand that the profits on 1,000,000 barrels of oil between 62 cents and what it may be sold for by the 1st day of November, 1888, is to be distributed?—A. Yes, sir.

Q. And that distribution is to be in addition to the \$1 a day?—A. No, sir; a dollar a day is to be deducted out.

Q. You are to have your share of it less what has been paid at the rate of a dollar a day?—A. Yes, sir.

Q. And upon that expectation you are receiving a dollar a day and lying idle?—A. Yes, sir.

Q. Rather than work and get \$12 a day?—A. No, sir; my \$12 a day I could not get at that time.

Q. Why not?—A. Because there was no work to be done.

Q. That is, the producers were no longer boring or cleaning out?—A. As a general thing they were not.

Q. So you took that element into consideration in accepting this instead of \$12 a day, that you could not get the work?—A. That I could not get the \$12.

By Mr. WILSON:

Q. How do you suppose they got at this price of 62 cents a barrel as the basis of the agreement?—A. That I can not answer.

Q. Do you know what the market price of oil was at that time?—A. About the time that 62 cents was fixed?

Q. Yes.—A. I do not know about the time 62 cents was fixed. I could tell you near about what the price was at that time.

Q. What was the market price for oil, say, about the 1st of December?—A. It must have been between 70 and 80 cents.

Q. What was the market price for a month earlier than that; say, about the 1st of November?—A. I am only guessing at this. It must have been in the neighborhood of 70 cents; somewhere along there.

Q. And you do not understand, then, why, 62 cents was put into the contract as the basis of the agreement?—A. No, sir.

Mr. WEBSTER here made the following explanation:

I would like to have it understood that Mr. Leasure has drilled one well since they shut down, since we have been organized, just before this rig was blown up, and had finished the well just before this, I

did not know that he was going to start this well at all. The rig had been standing there for three or four months, and we did not know anything about it. He had just finished one.

By the CHAIRMAN:

Q. He drilled one and the rig was standing there?—A. Yes, sir; we did not know that he was going to start this other well at all.

By Mr. SMITH:

Q. He drilled one well. Was that in the neighborhood of where this derrick was?—A. It was within $1\frac{1}{2}$ or $2\frac{1}{2}$ miles. I never was up there.

By Mr. BUCHANAN:

Q. Do you know whether he had a permit for that well or not?—A. I do not think that he was connected with the producers at all.

Q. Do you know whether he had a permit for the drilling of that well?—A. I think not; I am positive that he had not; I feel positive that he had not. The producers can tell better than I could.

Q. One thing you are certain of, and that is that you are not certain. [Laughter.] You can not be positive about it, that he had a permit?—A. I could not tell what the producers had; I do not know; but it was the understanding, as near as I knew, that he had no permit; that was the understanding amongst us.

At this point the committee adjourned until to-morrow morning at 10.30 o'clock.

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SATURDAY, April 7, 1888.

The committee met at 10.30 a. m.

Present: The chairman, Mr. Smith, Mr. McKinney, Mr. Wilson, Mr. Breckinridge, Mr. Grimes, Mr. Crouse, and Mr. Buchanan.

TESTIMONY OF DAVID KIRK.

DAVID KIRK sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. Bradford, Pa.

Q. What is your business?—A. Oil producer.

Q. How long have you been engaged in that business?—A. Since 1860; about twenty-seven years.

Q. All times in that locality?—A. No, sir; not continuous in producing. I have been a refiner and transporter; a pipe-line manager; in business in various ways in that time.

Q. How long have you been engaged in business as a producer?—A. Fourteen years continuously; the last fourteen years.

Q. Do you know of the existence of an association called the Producers' Protective Association?—A. Yes, sir.

Q. Is that the exact title of it?—A. Producers' Protective Association; yes, sir.

Q. Is that an incorporated company?—A. No, sir.

Q. A voluntary association?—A. A voluntary association.

Q. When was it formed?—A. During 1887, last year; it commenced, I think, about June.

Q. June, 1887?—A. I think that was about the beginning of it.

Q. When did it get completely organized?—A. About in September or October.

Q. Has it a constitution?—A. It has.

Q. Have you a copy of it?—A. I have.

Q. Will you produce it, please?—A. Yes, sir [handing the chairman a copy].

(Copy hereto attached and marked D K, No. 1.)

Q. I see by the terms of this instrument that there is to be a general assembly of the Producers' Protective Association and also local assemblies. Has it been organized upon that plan?—A. Yes, sir.

Q. Are there local assemblies?—A. There are thirty-six local assemblies.

Q. Will you state where they are located?—A. At different points in twelve counties; two in New York and ten in Pennsylvania.

Q. Will you name the counties, please?—A. Alleghany and Cattaraugus Counties, N. Y.; McKean, Warren, Forest, Crawford, Venango, Clarion, Butler, Allegheny, Washington, and Armstrong Counties of Pennsylvania. That, I think, constitutes all of them.

Q. Are you a member of the general assembly?—A. Yes, sir.

Q. Are you one of the officers?—A. I am one of the executive board.

Q. That is, the executive board of nine provided for in this instrument?—A. Yes, sir.

Q. How many members has this Producers' Association now?—A. I am not sure on that point; somewhere between 1,800 and 2,000.

Q. Has the general assembly a treasurer?—A. The executive board has a treasurer.

Q. Is that the officer who is designated here as an officer of the general assembly?—A. I presume so.

Q. Under the head of officers in this constitution there is a provision that the officers shall consist of a president, vice-president, secretary and treasurer, and an executive board of nine?—A. Yes, sir.

Q. Is there some one filling the office of secretary and treasurer?—A. Yes, sir.

Q. Who is that?—A. I am not at liberty to name him. I do not know that there is any objection, but we take an obligation to that effect.

Q. You take an obligation to what? To the effect that you would not disclose under oath—what?—A. That we would not reveal any business transacted by the association or the names of its officers, except such as come before the public.

Q. Is there any other reason why you should not give the names of these officers?—A. That is all; I know of no other reason. It is just a question of my obligation as a man.

Q. Mr. Kirk, you were one of the promoters of the formation of this association?—A. Yes, sir.

Q. Before pressing that point we will go back a little. These counties that you have named in Pennsylvania and New York include within their boundaries what is known as the oil-producing regions of Pennsylvania and New York?—A. Yes, sir.

Q. Who are eligible to membership in this association or any of the local ones?—A. Producers of petroleum and those engaged in industries incidental thereto.

Q. What do you mean by producers of petroleum?—A. Well, a person who has oil-wells and produces petroleum.

Q. And what do you mean by "industries incidental thereto"?—A. Well, dealers in oil—well supplies and refiners and parties who are engaged in the petroleum business whose interests are supposed to be with the producers.

Q. Then your association permits persons to become members of it who are not engaged in actually getting the crude oil out of the earth ?—A. Yes, sir.

Q. In fact, Mr. Kirk, are there any refiners members of your association ?—A. Yes, sir.

Q. Individual refiners or companies ?—A. Well, there are, I think, individuals. By individual refiners I mean a man that is not in a corporation. There are partnerships and things of that class.

Q. Are any corporations represented in your association ?—A. No, sir; no refining corporation; crude-producing companies are.

Q. That is, companies who are owning and operating wells ?—A. Yes, sir.

Q. I see by this constitution that the general assembly was required to hold its first meeting on the first Tuesday in September, 1887 ?—A. Yes, sir.

Q. Did it held a meeting at that time ?—A. Yes, sir.

Q. Has the general assembly held any meeting since ?—A. No, sir.

Q. There is a provision under the sixth article of this constitution requiring a statement of daily average production of each member to be furnished to the local secretary on the 15th of each month, and the local secretary to transmit such statement to the secretary of the general assembly on the 20th of each month ?—A. Yes, sir.

Q. Has that plan been carried out ?—A. No, it has not been carried out lately.

Q. Have any such reports been made ?—A. I think there have been partial reports. It has been tried to put it into effect, but it has not been successful.

Q. Has your general assembly filled all the offices provided for by this constitution ?—A. Yes, sir; all the offices that it was authorized to fill.

Q. The officers named are a president, vice-president, secretary, and treasurer, and an executive board of nine ?—A. Yes, sir; of which those officers constitute part of the nine.

Q. Then there are six besides those officers ?—A. There is a vice-president—four outside of the officers.

Q. There are five outside of the officers if the secretary and treasurer are separate officers. I thought they were the same. Has there been kept by the secretary a report of the proceedings of the assembly ?—A. Yes, sir.

Q. Now, has this executive committee had meetings ?—A. Yes, sir.

Q. Do you recognize this document as a report or circular issued by the executive committee of the Producers' Association [handing witness a paper] ?—A. Yes, sir.

(Marked Exhibit D K, No. 2.)

Q. As originally organized, had this association any connection with the Standard Oil Company or the Standard Oil Trust ?—A. No, sir.

Q. Was any member, either of the trust or any of the companies of that name, admitted to the Producers' Association ?—A. No, sir; they were barred by the constitution and the laws.

Q. Have any been admitted since ?—A. No, sir. Its primary object was to organize against the Standard Oil Company—to protect itself against it.

Q. In what way, in your opinion, did the producers who formed this association need protection against the Standard Oil Company ?—A. Because the Standard Oil Company had secured virtually a monopoly of the transportation, refining, purchase, and sale of this article.

Q. How did you expect to overcome or alleviate that condition of things by forming this association?—A. We proposed to refine and market our own product at that time; that is, the men who got it up.

Q. Was that the plan that was started on in June last?—A. I would just like to read you the object of the association at that time. [Reading:]

To include in one organization all producers of petroleum, and those who are engaged in industries incidental thereto, and known to be friendly to the producers' interests, in order that they may, by united action and all honorable means, protect and defend their industry against the aggressions of monopolistic transporters, refiners, buyers, and sellers of their product, in order that the producers may reap the just reward of their capital and labor, and to this end encourage and assist as far as possible the refining and marketing of their product and sale direct to the consumer by the producer.

That is the object of the organization.

Q. Has there been any effort of which you know, or in which you took part, looking to the same end before this organization was formed?—A. We had almost unitedly asked of the legislature of Pennsylvania to pass a law throwing their lines of transportation open to the public and compelling them to deliver the goods at any point upon their lines where the owners desired, in order that the independent refiners could get the goods, and encourage the growth of independent refiners; and also to fix their charges at reasonable rates, which were deemed unreasonable and unjust for transportation.

Q. What do you mean by the transporting lines of the Standard Oil Trust?—A. There is a system of pipe lines connected with all oil wells, that are known as the National Transit System, and they transport the oil; gather the oil.

Q. And transport it where?—A. Originally to railroads within reach; but latterly nearly all of it goes by pipe lines, called "through lines" to New York, Philadelphia, Baltimore, Cleveland, and Pittsburgh; I believe that is all.

Q. Under the operation of those pipe lines could not oil be taken out except at the terminus of the line?—A. No, sir. They threw every obstacle in the way of reaching a railroad or getting where an independent man could get it.

Q. Then you had applied, as I understand it—the gentlemen who are now connected with this Producers' Association had asked the legislature to compel the Pipe Line Company to deliver the oil at other than the terminals of these pipe lines?—A. Yes, sir; they virtually had no terminals except at their own lines.

Q. And being defeated in that project—A. (Interrupting.) We proposed then to market our own product.

Q. And being defeated in that project, you began this organization?—A. Yes, sir.

Q. You never have, as I understand the situation, refined any oil?—A. No, sir.

Q. After this organization was formed, was any negotiation entered into between it and the Standard Oil Trust?—A. Yes, sir; after a great many plans and schemes had been proposed it was deemed best to appoint a committee to wait on the Standard and see what they would do before we would go into a fight. We found that we would have trouble to get capital and means to construct those lines.

Q. Was such a committee appointed?—A. Yes, sir.

Q. Were you a member of it?—A. No, sir; I was not.

Q. Has it reported to the executive committee?—A. Yes, sir; reported to the assembly,

Q. Where was the negotiation conducted, at Bradford or New York, or where?—A. It was at Saratoga and Niagara Falls. I was not engaged in the negotiation originally; I was not one of that committee.

Q. Did you take part in the negotiation?—A. Yes; at a later date, in making a final contract, etc.; yes, sir.

Q. There was a contract entered into finally?—A. Yes, sir.

Q. When was that done? When did the negotiation reach a point?—A. I believe some time in September last.

Q. Was the contract reduced to writing?—A. Yes, sir.

Q. Have you it, or a copy of it?—A. No, sir.

Q. Do you know where that agreement is or where a copy of it can be obtained?—A. I think there is a copy of it in this room, probably.

Q. Not in your possession?—A. No, sir; I am not custodian of any papers. I might say that the Standard attributed all our troubles to existing stocks over supply; that we had a large stock on hand that was deteriorating in value—carried at vast expense that competed with us as producers, and until that was got out of the way we could not hope to get a fair price for our goods; and they convinced our committee, and finally the committee convinced our assembly, that that was the trouble, and the best course was to get rid of that trouble first and take up the refining and marketing of our goods afterwards, and a contract was entered into with the Standard. I can state about what that contract is.

Q. I was just going to ask you to state the substance of it, as originally made?—A. There was about 31,000,000 of oil on hand at that time.

Q. Thirty-one millions of what?—A. Barrels.

Q. Unrefined oil?—A. No; crude oil; 31,000,000 barrels. When they said that must be got rid of, we said, "What will you do if we stop our production with those stocks? It will enhance their value, and if we stop work we ought to get the benefit"; and we asked them to give all of that stock that they owned to us at the then market price. After a good deal of negotiation and trouble they finally said they only had 10,000,000 of this 31,000,000; that the 21,000,000 was owned by other parties, and that they would give us one-half of that, which, by this contract, they agreed to do; agreed to give us 5,000,000 at 62 cents, the price when the contract was made—the market price, to be held on our account, and to be sold during the year—we on our part to agree to reduce our production during the year 17,500 barrels a day. If we showed at the end of the year that we had reduced our production by 17,500 barrels a day, then we were to get the profits, whatever they might be, on that oil; that was, to sell it at our pleasure.

Q. The difference between 62 cents and whatever it sold for?—A. Yes, sir; less storage, fire losses, and insurance. We were to sell it at our pleasure, and as it was sold to give them an order for the oil. The oil was to be deposited in a trust company.

Q. By oil, you mean certificates?—A. Yes, sir; profits as received so deposited, and at the end of the year if we had shut in, on this proportion we were to have those profits. We had to do it for three months before this oil would be set aside and considered as for our benefit.

By Mr. CROUSE:

Q. Excuse me, Mr. Chairman, but I would like to ask a question just there. Were you to limit your production to 17,500, or by 17,500?—A. No; we were to cut off the production to that extent.

By the CHAIRMAN:

Q. To limit it by 17,500 barrels per day?—A. And whoever limited this production was to get his proportion pro rata for the number of

barrels shut in. Some shut in a half, some one-quarter, some one-third, and so on, as their circumstances would warrant, and the number of barrels per day that is shut in is divided pro rata among those who have done it, and they reap the profits in proportion.

Q. Now, you paid nothing to the Standard Oil Company and gave it no consideration for the transportation of these 5,000,000 barrels of oil other than the agreement to reduce the production to the amount you have named?—A. That is all; yes, sir.

Q. Now, was there a statement or agreement negotiated between you and the Standard Oil Trust in relation to the giving up by them of a further quantity of oil?—A. Yes, sir; of that 5,000,000 we immediately appropriated 1,000,000, or the profits thereon, for the benefit of labor that would be injured by the shut-down movement, and we thought we could wring another million out of the Standard for that purpose, and we went to work to do it and done it, and they gave us another million which made the 2,000,000 which is set aside.

Q. Now, when did you get from the Standard the agreement to set aside this 1,000,000 barrels of oil for the benefit of labor?—A. I think probably that was in October; somewhere along there.

Q. When was the shut-down to begin?—A. It was to begin whenever we got the requisite amount subscribed. We expected to do it by the 1st of October, but did not succeed until the 1st of November, when it was declared to be binding on all and went into effect.

Q. That is November, 1887?—A. Yes, sir.

Q. Since that time has there been a diminution of production in the region occupied by this Producers' Protective Association?—A. Yes, sir.

Q. Beginning with the first day of November?—A. The first day of November; yes, sir.

Q. And that still continues?—A. That still continues.

Q. Now, will you state how that was brought about; what methods were used to create or cause this diminution?—A. Well, we went up and down through the country begging.

Q. I do not mean that; I mean the practical mechanical method used. What did you do; stop pumping, or plug up your wells, or what?—A. We began to limit our production; shut down, some entirely, some partially.

Q. What do you mean by shut down?—A. In the case of a flowing well we just simply turn the cock.

Q. You turn the stop-cock?—A. Yes, sir.

Q. A portion of your wells are not flowing.—A. Well, we stopped pumping, and those parties just pumped enough to make their limit—pumped the wells partially. There was no shut down entirely.

Q. As I understand this business, prior to the shut-down you were in the habit of cleaning out, or doing something which you call shooting, I suppose?—A. Yes, sir; that was to increase the production.

Q. You say that was to increase the production?—A. Yes, sir.

Q. Was there anything of that sort done?—A. Yes, sir; there has been some of it done.

Q. As much as heretofore?—A. For instance, a great many parties were unable or unwilling to shut in and we got them to agree to sign another contract not to increase or to interfere with those who were sacrificing them, and agreed not to shoot any or to clean out.

Q. You say there has been some shooting?—A. Oh, yes; we did not get all the world in.

Q. Has there been any among members of your association?—A. No; there may have been some individual cases, but very few.

Q. I have not had time to read this constitution and by-laws through, but is there a restriction in them somewhere requiring members of the association not to shoot or clean out or increase the production of their wells except by permission of this executive committee or of the local assembly?—A. No, sir; not in the constitution. All that has been a matter of voluntary signing of contract.

Q. Then there is a contract?—A. We have, as I said, from 1,800 to 2,000 members; we got something less than 1,000 to sign a shut-in; the others were not compelled to shut in. We got some more, I do not know how many, to agree not to increase; the others have not been prevented from increasing, and so on. It was a matter of individual contract and agreement.

Q. So that there exist individual contracts between the members of this association, or signed by members of this association, relating to this matter?—A. Yes, sir; and signed by men who are not members of the association; many such.

Q. But agreeing with the members of the association?—A. Agreeing to such contracts as they might sign.

Q. Are those contracts in your possession?—A. For instance, there were what we regarded as standard allies. They were barred by our constitution, but they were willing to go into this, and while not members they signed those contracts.

Q. Are those contracts in your possession or under your control?—A. No, sir.

Q. Have you any copies of them?—A. I have not.

Q. About how many signers are there to these different kinds of contracts?—A. The shut-in contract, according to my recollection, is signed by nine hundred and eighty-two, I think, or nine hundred and ninety-two, pretty near a thousand; that is the shut-in contract; the others I do not know. There was another contract, an agreement not to drill new wells during this time. There are three contracts in all.

Q. How many signers were there to the third contract not to drill new wells?—A. That I do not know.

Q. Was that made with the members of the association—among members of the association?—A. Yes, sir; as well as outsiders.

Q. By and with the advice and consent of the general assembly or the executive committee?—A. Yes, sir.

Q. Was that part of the plan?—A. Yes, sir; those contracts all originated in the general assembly.

Q. Now you have said something of a surplus or an alleged surplus of 31,000,000 barrels; I do not know that you called it surplus, but stock on hand?—A. Yes, sir; stock on hand.

Q. That meant oil that had been pumped up and delivered in a crude state to some of these transportation companies?—A. Yes, sir.

Q. And was in store there in the tank or in the pipe lines?—A. Yes, sir.

Q. And for which certificates had been issued?—A. Yes, sir; for a large portion of it.

Q. The Standard Company, as I understand it, claim that they only owned 10,000,000 barrels of this?—A. At that time; yes, sir.

Q. Was the whole of it in their possession?—A. No, sir.

Q. Well, what proportion of it?—A. Well, probably 27,000,000 of 31,000,000; that is my recollection; perhaps 28,000,000. I could not give the figures if I had a little time. I do not know whether I have

them here or not. (After examining a paper the witness continued.) In September I find there were 28,329,702 barrels in their possession.

Q. Out of the 31,000,000?—A. Yes, sir.

Q. And for which they had outstanding certificates?—A. Yes, sir; and probably there was another 1,500,000 in the hands of their ally, the Tide-water Company.

Q. This oil was represented by outstanding certificates, was it not?—A. A certain proportion of it; not all. At that time there was represented by outstanding certificates 20,959,000 barrels, about 21,000,000.

Q. The Standard and its ally, as you call it, had how much in September?—A. About 29,500,000.

Q. Of 31,000,000?—A. Yes, sir.

Q. And where was the rest?—A. In the hands of other pipe-line companies.

Q. Some of the smaller companies?—A. Yes, sir.

Q. Is there any other pipe line from this region to any of the principal markets that is not controlled by the Standard Trust?—A. No, sir; that is, there is the Tide-water to Philadelphia that I have understood signed a contract. They act in conformity and as partners of the Standard Oil Company, and prorate the production between them; I know that much.

Q. This small amount that was not included in the Standard Oil possessions was in the local lines, I suppose, and tanks of the smaller lines running through that country?—A. Yes. I will go further than that. There are two more lines owned by the Standard—the Southwest Pennsylvania and the Magdsburg. They are Standard companies which I did not think of. I would guess that within 500,000 of the 31,000,000 barrels was under the control of the Standard Oil Company; you might virtually say it was all under the control of the Standard Oil Company, that is, in possession of their tanks and systems. The other would be too trifling to talk about.

Q. Now, can you give me a statement to the latest date that you know of as to the amount of oil in stock at the present time and down to as late a date as you have?—A. I think about 26,000,000.

Q. At what date?—A. At the 1st of April.

Q. First of April of what year?—A. This present year.

Q. Did you go to work under this contract to reduce the production of oil?—A. Yes, sir.

Q. What has been the average reduction; daily reduction?—A. Well, I would say probably 25,000 barrels a day; 25,000 to 27,000 barrels a day; well, perhaps not from the 1st of November, but from the 1st of December I would say 25,000 barrels as an estimate.

Q. Has that reduction come from and as the result of these contracts?—A. Largely. There has been a natural shrinkage. Our shut-in has probably taken 19,000. The other is natural shrinkage, a part of it caused by the refusal to drill wells.

Q. That is, the wells produce less?—A. Yes, sir.

Q. And under your contract will continue to produce less unless cleaned out?—A. Yes; but many of them are being cleaned out. There are quite a number not in this arrangement. And notwithstanding the cleaning out and all that they decrease still. All wells decrease.

Q. I take it, without seeing these contracts, that they provided for a reduction of about so much; for each person who signed the contract stipulated how much he would reduce?—A. Yes, how much he would reduce a day.

Q. What was the aggregate of those contacts?—A. On the shut-in contract I think we reduced about 17,000 barrels.

Q. And in addition to that there was the provision of the contract that no wells should be dug and wells should not be cleaned out?—A. Yes, sir.

Q. And the natural tendency of the performance of that contract was to still further reduce the product?—A. Yes, sir.

Q. Now all the oil produced in this country is of a quality sufficient to make illuminating oil, is it not?—A. In this field you mean?

Q. Yes, sir.—A. We have a lubricating oil which is not suitable for illuminating purposes.

Q. Please explain the difference.—A. One is heavy and the other is light.

Q. Which is the heavy?—A. The illuminating oil is light. It has much less specific gravity. The heavy is the lubricating oil.

Q. And can not profitably be made into illuminating oil?—A. No, sir.

Q. The price in September, when you made this contract was 62 cents, was it not?—A. Yes, sir; on the day when the preliminary contract was made the market happened to be 62 cents. It had been down to 56 cents a short time before.

Q. State, please, from your experience, what it cost, averaging it, to bring a barrel of oil into the pipes?—A. Our estimate, made by the association after a careful examination, was \$1.15.

Q. When was that made?—A. This year. During the last two or three months.

Q. And in making it what did you include?—A. The cost of the wells and the cost of running them, and the shrinkage, etc.

Q. What do you mean by the cost of the wells? Do you mean the cost of putting them down?—A. Yes, sir; the drilling and the territory which has to be purchased or leased, and the equipment, engines and boilers, tubing, sucker-rods, and all the paraphernalia necessary to run a well. We estimate the cost at \$1.15 the past year. That was sold at an average of 66 cents, and we estimate that we lost over \$10,000,000. We were \$10,000,000 poorer at the end of the year than at the beginning. We were giving it away for nothing and approaching bankruptcy.

Q. Were you ever connected with any company or organization in this oil business before your connection with this Producers' Association?—A. Yes, sir, and I had been, as I stated, a refiner. I had a refining company, but was frozen out. I started a pipe-line company and had to sell that out to escape ruin.

Q. Did any company with which you were connected ever make any statement about the cost of the production of oil—any public statement that you recollect of?—A. I am president of a producing company, and we have made those statements annually—not this last year, but previously.

Q. Did you in any year within the last few years make a statement from any of your companies fixing a price at which oil could be produced at a profit at 40 cents?—A. No, sir, I did not.

Q. Do you know a company known as the Union Oil Company?—A. I do.

Q. Were you ever a member of that company?—A. No, sir.

Q. Do you know or did you ever hear of any of the dividends declared by that company?—A. By the Union Oil Company?

Q. Yes.—A. No, sir.

Q. You never heard anything about that?—A. No, sir; well, I do not

know, I believe I did. I believe 8 per cent. annually. I think I heard that.

Q. When?—A. I do not know when the company declared its last dividend.

Q. What is their business?—A. Producing oil.

Q. Did you ever hear of their declaring dividends as high as 50 per cent.?—A. No, sir; I never did.

Q. Did they declare a dividend last year?—A. I am not sure, but I think they did. I will talk about my own company in that connection.

The CHAIRMAN. Oh, just answer the question—that is all.

The WITNESS. Most of us have been declaring dividends out of our plant. Our plants are getting less, but we have to be supported; we have to live.

Q. Has there been a considerable change in the amount produced between last fall and this winter?—A. Yes, sir.

Q. I see a statement here that the average daily production in October, 1887, was sixty-five thousand and odd barrels; and in January, 1888, was thirty-seven thousand and odd barrels. Are those figures correct?—A. I think so; yes, sir.

Q. Now you have stated that the 2,000,000 barrels were set aside for labor?—A. Yes.

Q. What labor, what classes of labor?

The WITNESS. Will you please excuse me before leaving that question about the 40 cents?

The CHAIRMAN. Certainly, you may make any explanation you desire.

The WITNESS. From 1878 to 1884 we had wonderfully prolific territory. We could lay out and locate wells like rows of corn, and every well would be a success. This was how we accumulated these large stocks, reaching at one time nearly 40,000,000 barrels. For four years we have been unable to find any such territory. In the former time I speak of I do not think there was over a half per cent. of failures. That is the character of territory that we have now to produce out of, and the old stocks are now competing with us out of this kind of territory, and if dividends were declared formerly it was on that class of territory. I think my company earned 50 per cent. one year.

Q. At what price per barrel?—A. Well, allowing about \$1. Every year for four years we have been getting less oil and had to sell it at a less price. So if there was any estimate of 40 cents for cost it referred to a past time, and not the present.

Q. You reached the lowest price in 1887, did you not?—A. Yes, sir.

Q. The surplus stock four years ago was 27,000,000, was it not?—A. Yes, sir.

Q. And in 1887, 31,000,000?—A. Yes; it was the old stock competing with us on inferior territory.

Q. The use of kerosene oil, refined oil, throughout the world has not diminished any, has it?—A. No, sir; but we would be all driven out of the business at the price. We received on an average in 1887, 66 cents; we got 22,000,000 for what cost us 33,000,000.

Q. I want to know if you can give me any explanation why the decrease of production and increase of use should not have helped you on the price?—A. It should have; but those old stocks are carried on and affected the sales.

Q. Who carries those stocks?—A. Previous to this new territory being discovered we had had high prices—\$2 to \$5 a barrel; and the hope of the speculator was that that time would come again. But the

period of depression lasted too long, and they were all ruined, and the oil companies were about ruined, for the average barrel of oil will eat itself up in four years. If you pay the rates of storage and interest in four years you would have nothing, so that men have ceased to buy this oil or to carry it.

Q. These facts were known to you when you formed this association?—A. Yes; and we formed it to remedy them.

Q. As I understand, you formed it to get a better market for your oil?—A. We thought the oil companies were getting more than their share, and that the price the world was paying for the refined would still compensate us if we got our share.

Q. What difference between raw and refined oil will show a profit in the business?—A. That I could not answer on the spur of the moment.

Q. What has been the price of refined oil—the average price—for 1887?—A. $7\frac{1}{10}$ cents for refined oil.

Q. That was the price per gallon?—A. Yes, sir.

Q. It is not given in barrels?—A. No, sir. That is in gallons. $7\frac{1}{10}$ cents was the average price in New York, barrel included, package and everything for export being paid by the exporter. We delivered to him for $7\frac{1}{10}$ cents.

Q. Was that the price throughout the United States?—A. No, sir; simply for export.

Q. What was the price for domestic use?—A. I guess you will find it 50 or 60 cents out in some parts of the country—Texas, for instance.

Q. In the foreign market have you any competition?—A. No, sir; at least Mr. Brewster, vice-president of the Standard Oil Company, told us we have not.

Q. Oil is produced in other countries, is it not?—A. He stated he could get us 4 cents a gallon more for the refined oil just as easy as what he was getting, and for every one-eighth advance on the refined he could get 4 cents a barrel more for the crude.

Q. Every eighth on what?—A. Every eighth of one cent a barrel. Add the 3 cents to the price it was and that would bring our oil to 64 cents; he could get that as easy as the 62 cents. He stated that the foreign importer looked over our stocks, and it was idle for them to advance the price as long as the stocks were as they are. That is the way he put it. Three-fifths of all our products in 1887 went to foreign countries.

Q. What other class of labor was there for you to take care of besides the people who are connected with this Well Diggers' Association?—A. There are pumpers and rig-builders, tank-builders, laborers, etc.

Q. These were people resident of the territory in which your association was located?—A. Yes, sir; it was arranged among the members of our association that each individual member would not discharge any one if he could help it. An effort was made not to discharge any one.

Q. Has any organization been formed by these laborers other than the Well Diggers' Association?—A. I have heard and seen in the papers of such an organization; but I do not know personally.

Q. So that the relief to labor not included in the Well Diggers' Association has been a personal matter to each laborer?—A. Yes, sir.

Q. And outside of the association the relief afforded to labor has been furnished to individuals?—A. Yes, sir.

Q. About how many men have been furnished any relief from the proceeds of the sales of this oil, not connected with the Well Diggers' Association?—A. The different assemblies have considered the wants

of the men from their immediate territory. All have sent in their names, and we have entered into a contract with the Well Diggers' Association, but have not had any opportunity of knowing the exact number.

Q. You must have formed some estimate of how many would be benefited before you made the contract? You must have had some idea of the number of people to be relieved?—A. No; we thought the laborer ought to get a share of the benefit. If they suffer, we suffer. They ought to get their share, and we arranged to give them one-third without regard to pay. It was intended not as a charity, but as a dividend. Steps were taken subsequently to ascertain who were entitled to it.

Q. And those steps were taken through the officers of your association?—A. Yes, sir.

Q. Who were the representatives of the Standard Oil Trust with whom you conducted your negotiations?—A. Mr. Brewster and Mr. Archibold.

Q. Are the members of your association sworn to secrecy?—A. I think you might regard it as an oath. I so regard it. It was what you might call an obligation.

By Mr. WILSON:

Q. Mr. Kirk, where are the oil fields of the country, generally?—A. They are in those counties I have spoken of; that is, the Pennsylvania field. It extends up into New York.

Q. I observe that in this statement of your executive committee there are two fields, one called the White Sand field and the other called the Bradford and Allegheny oil fields?—A. Yes, sir.

Q. Are there any other?—A. We have the Maxwell field, for instance, and some little in West Virginia. Well, they might be regarded as white sand too.

Q. You have been a representative producer of oil since 1866?—A. 1860.

Q. And have drilled a good many wells in that time?—A. Yes, sir.

Q. To whom have you sold your oils generally?—A. Well, for the last few years all our sales have been to the Standard Oil Company representatives.

Q. The Standard Oil Company was the purchaser of your oil, then, at the time you formed this association?—A. Oh, yes; this oil is put into certificates. It floats in the exchanges. There are nominal buyers that are not actual buyers. No actual goods pass in these exchanges. They are mere gambling dens, made up of betters on the markets. The great buyer of the actual goods is the Standard Oil Company.

Q. Just explain to me how you make your sales to the Standard Oil Company. When you pump your wells what do you do with the crude oil?—A. They come to my tank, take its depth, open the cock, and let it flow into their line until it is empty. All our tanks are gauged to a hundredth of a barrel. Then they give me a ticket showing how many barrels of oil I have in the line. I can take that to their office and get a check for the amount at the rate oil is quoted at on the exchanges at that instant.

Q. So at the time the producers entered into this association there was but one purchaser of oil in the market?—A. No, sir; there were a great many purchasers on those exchanges, as I have said.

Q. I am not speaking of exchanges but only of actual purchasers of oil.—A. Well, the Standard and its allies were the actual purchasers. They were the actual purchasers of at least four-fifths of it.

Q. And the object of your association, as expressed in the preamble, was to protect yourselves against this monopoly in the purchase, refining, and transportation of your product?—A. That was it.

Q. Of the one thousand eight hundred or two thousand members of your association, can you give me an idea as to how many are producers of the crude oil?—A. I think three-fourths, at least, of them are.

Q. How many are refiners?—A. Very few.

Q. How many persons are engaged in those industries incidental to petroleum?—A. That I really don't know. There are thirty-six assemblies, and they are judges of the qualifications of their own members.

Q. How many producers in this territory which you cover by your association are not members of the association?—A. That I can not tell.

Q. Any large number?—A. That has been a problem with us, and I do not think it can be answered.

Q. Do they continue to produce as they did heretofore, without any respect to the effort you are making to restrict production?—A. Some do; those who take advantage of our necessities.

Q. To whom do they sell their crude petroleum?—A. They sell just like the rest of us.

Q. It goes to the Standard Oil Company?—A. Yes, sir. It is the same for the just and the unjust.

Q. When this association was formed the market price for crude petroleum was 62 cents per barrel?—A. Yes, sir; the price had been down to 56 cents at one time, but when we formed the association it was 62 cents.

Q. When you conferred with the authorities of the Standard Oil Company or Trust, their opinion was that the low price of oil was due to the accumulated surplus on hand, of which they stated there were 31,000,000 barrels?—A. Yes, sir.

Q. But when you proposed to them to let you hold that oil to make any advance to be made on it, it had run down to 10,000,000?—A. They did not claim to own the stock.

Q. Perhaps I misunderstood you. I understood you to say that nearly all that thirty-one millions was owned by the Standard Oil Company?—A. No; I said it was in their tanks and pipe-line systems, held for whoever might be the owner.

Q. And the profits you were to have were to be made out of the advance in the price of the oil in the markets of the country?—A. Yes, sir.

Q. To be paid by the consumer?—A. Yes, sir.

Q. And I understand you set apart first one million, and after negotiation with the Standard Oil Company an additional million for the payment of your labor?—A. Yes, sir.

Q. That was set apart likewise at 62 cents a barrel?—A. Yes, sir.

Q. So the pay of the laborer was also to be made out of the rise in price that you expected to force?—A. Yes, sir.

Q. I understand that Mr. Brewster, in his conference with your association, said that so far as foreign competition was concerned, he would have no difficulty in running up the price of oil 3 cents a gallon in the foreign market?—A. Yes, sir.

Q. And that the reason he failed was because of the quotations in the home market?—A. Yes, sir, because of the surplus stock.

Q. In other words, the exporter or foreign producer seeing the prices quoted in the home market would resist the 3 cents advance?—A. Yes, sir.

Q. So the argument would be, if he could run it up here you could get the advance?—A. Yes, sir.

Q. Both here and abroad?—A. Yes, sir.

Q. Which have been the most profitable years in the oil business, Mr. Kirk, to the oil producers?—A. Well, the most profitable years I will say were during this Bradford field.

Q. From 1878 to 1884?—A. Yes, sir.

Q. Was the cost of production less than it has been since?—A. Yes, sir.

Q. And the price much higher?—A. Yes; if you include the cost of production, the certainty of getting it, and the permanency of the wells. Now, we can drill wells a great deal cheaper to-day than we could then, and they are cheapening all the time. If you give us the territory we will produce you oil less than we are selling it to-day.

Q. You have learned to cheapen the drilling of the wells very much in that time?—A. Yes, sir; we are willing to give consumers the benefit if God will give us the land.

Q. And the cost of producing a barrel of oil must depend entirely upon the individual well, I should suppose?—A. Yes, sir.

Q. The cost in a well that runs itself must be less than one that is pumped?—A. Yes, sir; and the soil has everything to do with it.

Q. So that it is a question with each individual producer?—A. Yes, sir.

Q. And varies not only with the individuals, but with their wells?—A. Yes, sir; that makes it so uncertain. Here is a man in the last week who got a 2,000-barrel well. He can make a fortune. With the average size of my wells, I would have to have 2,000 wells to do it. He will get more income from his one well than I can out of my 2,000. When we talk about the cost, we take the grand average of the country.

Q. When you say that the cost of producing a barrel of oil is \$1.15 or \$1.17, that means the average cost of the entire field?—A. Yes, sir.

Q. The flowing wells and the wells nearly exhausted?—A. Yes, sir. In that we include the Bradford field, that is still producing, and wonderfully cheap in expense. They only need to be pumped occasionally. It takes very little labor. The same authority estimates that the cost would be \$1.45. On the average of the last four years it would be \$1.45 a year. That is white sampsoe on the territory where we have been getting it. In this Bradford and Alleghany field in New York the rock was formed very thick, and extended all over the country. Down in the white-sand districts there are little belts, streaks, pools, hard to find. If you drill a hole in a space not larger than this room, you will get a big well. The whole thing is uncertain, while the other was a dead sure thing. That makes a great difference.

Q. When you formed this association, as I understand, there was practically one producer only in whose hands you were?—A. We thought that they controlled it.

Q. And the producing of oil was getting to be a losing business?—A. Yes, sir; it was not getting to be, but it was already a losing business, and had been for years.

Q. Have you any reason to suppose it was a losing business to that producer, the Standard Company?—A. No, sir.

By Mr. SMITH:

Q. Do the producers own the land on which the wells are located?—A. In some cases, and in some they do not. Many of them are leased on a royalty.

Q. Are some of those lands fit for cultivation?—A. Yes, sir.

Q. When a district has ceased to yield petroleum, is it abandoned as to the title?—A. No, sir.

Q. Does your union pay taxes on the land it occupies?—A. It does.

Q. Does your union pay taxes on the products of the wells?—A. No, sir; that is the individual's business.

Q. I understand by the articles of your association here, that you are the producers of oil?—A. Yes, sir.

Q. In that locality that you describe—those several counties and districts?—A. Yes, sir; the same as a union of farmers. Every farmer pays a tax of his own, and we do the same.

By Mr. BUCHANAN:

Q. The granger does not pay it?—A. No, sir.

By Mr. SMITH:

Q. Is the value or assessment made of your crop the same as any other?—A. The same as any other? I will correct that. We are generally in the hands of farmers or "buckwheats" [laughter], who charge ten times more on the proportion of the value. The moment oil is discovered, the local assessor whacks up the property. From those taxes we have had to build school-houses and roads, improvements far beyond our proportion.

Q. Now I want to ask you another question on this tax matter. Do you know whether the Standard Oil Company has to pay taxes on its pipe lines?—A. I do not.

Q. Are they obliged to pay taxes on the products which they purchase of you?—A. No; I think there is no tax on products.

Q. When it gets into their hands?—A. No, sir.

Q. Then you are the only individuals or association who are taxed?—A. No, sir; I presume they are taxed on the value of their refinery, or whatever they have got.

Q. But not on their product?—A. No, sir; we are not taxed on our product. We are taxed on our plant—the land and the wells. In one way we are. The assessors place the value in accordance with the production.

Q. So far as your testimony goes to show, this Standard Oil Company pays nothing in the shape of taxes to the public on that property?—A. I really could not answer whether they pay taxes on their pipe lines or not.

Q. The pipe lines may be taxed, or may not be taxed?—A. I think not. I think personal property like that is exempted; that is my opinion.

Q. Are you sure that the State of Pennsylvania exempts personal property of that kind?—A. I could not answer that; there have been so many changes in the law.

Q. You stated in your testimony, in answer to the question put to you by the chairman of this committee, that you tried to make arrangements with the railroad companies of Pennsylvania to ship your products to the markets?—A. No, sir.

Q. You did not?—A. No, sir; I did not make any such statement as that. We tried to get the legislature to pass a law throwing the pipe-line system open to the public.

Q. Why did you do that?—A. I explained the object—to get competition in refining.

Q. Then the railroad companies refused you the privilege that they gave to others?—A. The pipe-line companies, I said.

Q. I understood you to say railroads.—A. No, sir; the pipe lines.

Q. Do you know who owns these pipe lines?—A. The National Transit is part of the Standard Oil Company's outfit, and the South-western Pipe Line and the Maxbergh Pipe Line are all parts of their trust, as I understand it.

Q. Did you have an idea that you could, by legislative enactment, get these gentlemen to permit your product to be pumped or driven through those pipes?—A. Yes, sir; we did.

Q. In the State of Pennsylvania?—A. Yes, sir; we were suckers enough to think that. [Great laughter.]

Q. You, then, were not versed well enough in law, as it is construed in modern days—that there were vested rights which the State of Pennsylvania could not interfere with?—A. We certainly thought that they had a right to regulate the monster they had created. That is what I thought—to limit its charges and compel the delivery of the goods.

By Mr. WILSON:

Q. Make it a common carrier?—A. Make it a common carrier, and limit its charges.

By Mr. SMITH:

Q. Have these pipe lines the right of eminent domain the same as railroads?—A. Yes, sir.

Q. And that gave you the idea that the legislature could compel them to transport your products?—A. Yes, sir; that was the idea, and it was a mistaken idea.

By Mr. BUCHANAN:

Q. In what shape did you make this application to the legislature of Pennsylvania, by petition or the introduction of a bill?—A. It was by the introduction of a bill.

Q. And did you appoint a committee to make a visit to Harrisburg to see to the furtherance of that legislation?—A. Yes, sir; producers went down by hundreds.

Q. How far did the bill get?—A. It passed the house by an overwhelming majority, but was defeated in the senate.

Q. What did the bill provide—that these pipe lines should be common carriers and receive all the oil that was offered?—A. That was the substance; and also the limiting of the charges.

Q. You are pretty well acquainted with the situation of the producers of oil in the oil-producing sections of the United States, are you not?—A. Yes, sir.

Q. Give me, in general terms, their situation as regards their means of getting oil to market; whether they are dependent upon the Standard Oil Company and what you call its lines of transportation to the market; and, if so, in what degree?—A. They are dependent upon the Standard Oil Company to this extent, that the pipe lines are owned by the Standard. Nearly all, I would say 95 per cent., of our oil is transported by the Standard Oil Company and its ally that works in a pooling arrangement with them.

Q. Is that because they succeed in obtaining the oil transported, or because there are not other transporters?—A. There are other transporters that have started and been driven out. They lower their rates wherever there is competition, but nowhere else.

Q. Has it been, within your observation, the policy of the Standard and its allies, as you call them, to drive out or freeze out, as you ex-

pressed it awhile ago, all competition in the transportation of oil?—A. Yes, sir; that is exactly it.

Q. They have settled the policy?—A. Yes, sir.

Q. How many lines of pipe run east from the oil regions of Pennsylvania and New York?—A. To New York we have two or three lines—I do not know how many. I see their capacity is estimated at 25,000 barrels a day. They are owned altogether by the Standard—the lines to New York.

Q. Through what territory do they pass? Are you familiar with that fact? I mean, in carrying the oil to market, through what territory do they pass?—A. Through New York and New Jersey.

Q. How many are there west of the oil-producing region?—A. There are pipe lines to Cleveland and Pittsburgh.

Q. Controlled by what?—A. By this Standard Oil Company; and to Baltimore and Philadelphia. Our through lines virtually are all Standard, reaching the centers of distribution.

Q. Taking now the tank lines of cars—is it a fact or not that the Standard has secured control of all these?—A. I think so; and that is our understanding, that they have controlled them to a large extent.

Q. Suppose that you desire to-day to begin the shipment of your oil to New York, Philadelphia, Baltimore, or Cleveland market by means of other than those owned by the Standard, or, as you call them, its allies, what course would you take to do it?—A. We would have to duplicate their system of pipes.

Q. There is no existing means, then, for doing that?—A. No, sir.

Q. In other words, as the transportation facilities now are, they are now all under the control of this one combination?—A. Yes, sir; we would have to find capital to make an equal plant to compete with it.

Q. Then what security have you at present against an advance of rates in transportation?—A. None whatever.

Q. You would be compelled to pay them?—A. Yes, sir.

Q. And what is your observation? Does an increase in the rates of transportation cut down the profits of the producer or increase the price to the consumer?—A. It must be one or the other.

Q. I am aware of that. I asked your observation as to where it finally lodges?—A. I declare I do not know. I think it lodges in me, who has been losing money for years. I have been "paying the piper." [Laughter.]

Q. Your observation, then, is that the increase of transportation is at the expense of the producer?—A. Yes, sir.

By Mr. SMITH:

Q. What would be your benefit as a producer if these pipe lines were owned by the State?—A. It would be a great benefit.

Q. Would it also be a benefit to the people?—A. It would be a benefit to the consumer, of course. The producer would then have free competition and his price would be fixed according to the supply and demand. If we had not enough we would get more, and if we had too much we would get less if the avenues of transportation were open to everybody.

Q. Could you give this committee an idea of what these pipe lines cost?—A. The Standard Company, I believe, says they cost \$30,000,000; that is their capital stock. What the actual cost was I can not say. I could in time make an estimate. The understanding of the producers is that it never cost them a cent; that all their capital came from earnings—all of it—their whole system came from earnings.

Q. Whose earnings?—A. The earnings of those lines. The first line was bought on tick, and they paid for it before they had to buy more pipe.

Q. Do you know how many miles of pipe there are?—A. No; I can not say.

Q. Could you furnish this committee that?—A. At a later day I could furnish an estimate of the whole system.

Mr. SMITH. Mr. Chairman, what do you think of that?

The CHAIRMAN. I think that is a proper subject of inquiry.

Mr. BUCHANAN. We will have parties here who will have that information definitely.

By Mr. BUCHANAN:

Q. What is the average capacity of the pipe lines?—A. I think a 6-inch pipe will put 10,000 barrels in twenty-four hours; a 2-inch pipe will put 1,000 barrels. The capacity depends on the power. If you can put more power, you can put more through. If you increase your pumping force, you can send a great deal more oil through.

Q. I am asking as to your information about the average capacity of the working of the lines now constructed. I am speaking of the marketing lines.—A. The through lines; they are all marketing lines really. Their capacity is 10,000 barrels in twenty-four hours with 6-inch pipe.

Q. What proportion of the whole output of the Pennsylvania and New York field is sent to market by pipe, and what by tank-car?—A. I could not answer that without information.

By the CHAIRMAN:

Q. Have there been people working, such as rig-builders and carpenters, to a considerable extent in this oil business?—A. Yes, sir.

Q. They were not included in the Well-Drillers' Association?—A. No, sir.

Q. They have been provided for?—A. They were mentioned by me as rig-builders and tank-builders, etc., as being in the arrangement of which I spoke, their names being collected and arrangements being made to pay them.

Q. When was that arrangement made?—A. It was resolved on at the time.

Q. Do you mean in November?—A. Yes, sir.

EXHIBIT D K, No. 1.

CONSTITUTION OF THE GENERAL ASSEMBLY AND OF THE LOCAL ASSEMBLIES OF THE PRODUCERS' PROTECTIVE ASSOCIATION OF AMERICA.

PREAMBLE.

Object of organisation.

To include in one organization all producers of petroleum, and those who are engaged in industries incidental thereto, and known to be friendly to the producers' interest, in order that they may, by united action and all honorable means, protect and defend their industry against the aggressions of monopolistic transporters, refiners, buyers, and sellers of their product, in order that the producers may reap the just reward of their capital and labor, and to this end encourage and assist as far as possible the refining and marketing of their product and sale direct to the consumer by the producer.

CONSTITUTION OF THE GENERAL ASSEMBLY.

ARTICLE I.

Name and jurisdiction.

SEC. 1. This body shall be known by the name of the general assembly of the Producers' Protective Association.

SEC. 2. This general assembly has full and final jurisdiction, and is the highest tribunal of the Producers' Protective Association. It alone possesses the power and authority to make, amend, or repeal the fundamental and general laws and regulations of the order; to finally decide all controversies arising in the order; to issue all charters to local assemblies, and to prescribe forms of traveling and transfer cards, and issue all supplies requiring uniformity. It can also tax the members of the order for its maintenance.

ARTICLE II.

Membership.

SEC. 1. The members of this general assembly shall consist of delegates elected by the several local assemblies, and provided with proper credentials, signed by the president and secretary of the local assembly. Each local assembly having twenty-five members or less shall send one delegate; each local assembly having over twenty-five members shall send one additional delegate for each additional twenty-five members, or fraction thereof over twelve; said delegates to be elected at regular meeting of local assembly next previous to annual meeting of the general assembly and to hold their office for one year, or until their successors are elected: *Provided*, That whenever increased membership may entitle the local assembly to additional delegates, such delegates shall be elected and hold office until the next annual election of delegates.

New local assemblies, whenever constituted, shall elect delegates who shall serve until the next annual election of delegates.

SEC. 2. Each member of the general assembly shall be paid for his services \$3 per day for actual time spent in its services, and 3 cents per mile for traveling expenses to and from place of meeting, to be paid out of the funds of the general assembly.

ARTICLE III.

Meetings and duties.

The general assembly shall hold its first meeting in Bradford, Pa., on the first Tuesday in September, 1887, and annually thereafter at such place as may from time to time be determined upon.

Special meetings may be called by the president at the request of the executive board or one-third of the local assemblies.

One-half of the whole number elected to the general assembly shall constitute a quorum.

It shall be the duty of the general assembly to consider and determine all plans, methods, and schemes for the betterment of the oil-producing business. Any plan, method, contract, or agreement, requiring the co-operation of the local assemblies or members thereof, must be approved by a vote of two-thirds of all the members elected to the general assembly, and when so approved shall be binding upon all.

ARTICLE IV.

Officers.

The officers of this general assembly shall consist of president, vice-president, secretary, and treasurer, and an executive board of nine. The president, vice-president, secretary, and treasurer shall be a portion of the executive board. Five shall be a quorum.

All officers shall be elected and installed as soon as the constitution is adopted. They shall hold office until the next annual meeting, at which and subsequent annual meetings said officers shall be elected, and hold office for one year. All elections shall be by ballot, except in case when there is only one candidate.

All members of the executive board shall be actively engaged in the producing business. Not more than a minority of the executive board shall be elected from any one assembly,

ARTICLE V.

Duties of officers.

SEC. 1. The president shall preside at all meetings of the general assembly; shall act as chairman of the executive board; shall enforce all laws when general assembly is not in session, having general superintendence of the order; make the pass-word, and furnish the same to every local assembly in good standing; sign all papers and documents that require the signature of the president to properly authenticate them; shall, upon request of the executive board, or upon request, in writing, of one-third of the local assemblies, direct a special session of the general assembly to be called, and the secretary shall notify each local assembly entitled to representation in this general assembly, at least ten days previous to time of meeting, stating the object of the call. He shall have power to appoint organizers.

At annual meeting of general assembly a written report shall be submitted by the president of all official acts during the term. He shall also perform such other duties as the laws, rules, and usages of the order require. In addition to expenses he shall receive for services such compensation as may be fixed at each annual session, the same to be paid in equal quarterly installments, and at the end of his term of office shall turn over all books and other property of the general assembly to his successor in office.

SEC. 2. The secretary shall keep a correct report of the proceedings of the general assembly and executive board, read all communications, reports, petitions, etc.; make to the general assembly, at its annual session, a complete statement of the condition of the order, compiled from the latest reports of the local assemblies; shall conduct the correspondence of the assembly; shall keep a record of the names, numbers, dates of institution, and location of all local assemblies; shall have charge of all books, papers, and private work belonging to the general assembly; shall prepare and furnish to the order all supplies authorized by the general assembly. At the end of his term of office shall turn over to his successor in office all property of this body and order; shall keep a true account between the general assembly and the local assemblies; shall present to the general assembly at each annual session a full and correct statement of the amount of money received and paid out during the year; shall prepare a book in which shall be placed the names and address, and the local assembly represented, of every representative to the general assembly, to be known as the roll book; shall collect from the secretary of each local assembly such statistics as shall be directed by the executive board; shall perform such other duties as the laws and usages of the order require. For such service the secretary shall receive, in equal quarterly payments, such compensation as may be fixed at each annual session.

SEC. 3. The vice-president shall assist the president during the sessions of the general assembly, as necessity requires, in the discharge of the duties of that office, and in case of death, resignation, or removal of the president, shall succeed to and perform all the duties of that officer for the balance of the term.

SEC. 4. The treasurer shall keep all moneys of the general assembly, and pay therefrom all orders signed by the president and secretary; shall keep an account of all moneys received and paid out; shall render to the general assembly annually a statement of all moneys received and paid, and, whenever required by the executive board, furnish a statement of the financial condition of the general assembly. Upon expiration of his term of office shall deliver to his successor in office all books, papers, and moneys in his keeping. Before entering upon the discharge of his duties, shall furnish to the executive board a bond for the faithful discharge of the duties of his office; the amount of bond and bond to be approved by the executive board.

SEC. 5. The executive board shall act as trustees of the general assembly, and have a general supervision and control over the order. In case of the neglect of duty or violation of law on the part of any officer the executive board shall have power to remove such officer, after a fair hearing, subject to appeal at the next general assembly. All vacancies occurring in this board shall be filled by this board. The executive board shall have power to appoint, upon the recommendation of the secretary, such additional assistance in the office of secretary as may from time to time be needed.

The board shall hold sessions at such places as it deems most convenient and economical, at the call of the chairman of the board, or at the request of three of its members, whenever the needs of the order may require, and all necessary expense for such meetings shall be paid out of the funds of the general assembly.

It shall be the duty of the executive board to devise ways and means for the benefit of the oil-producing business, and they are authorized to enter into any negotiations which they may consider will be for the benefit of the trade, but no contract or agreement entered into by them shall be considered as binding upon the members of this association until it is approved by the general assembly.

ARTICLE VI.

Revenue.

SEC. 1. The revenue of the general assembly shall be derived from, for charters and supplies for local assemblies, \$10 each, and from all other supplies ordered or authorized by the general assembly, at prices fixed by the executive board. It is compulsory upon all local assemblies to procure any such supplies from the secretary of the general assembly.

SEC. 2. The general assembly shall have power to make assessments upon each local assembly for any further money required to carry on its operations. The basis of all assessments shall be the daily production of members.

SEC. 3. Each member of all local assemblies shall, on or before the 15th of each month, give to the local secretary a statement of his average daily production for the preceding month; the local secretary shall, before the 20th of the month, give to the secretary of the general assembly a statement of the production of the local assembly, and the names of its members, and all information relating to any change in the standing of its members.

SEC. 4. The secretary shall not furnish information or supplies to any local assembly that is not clear upon the books. Local assemblies thirty days in arrears are not in good standing.

SEC. 5. All supplies ordered from secretary must be paid for on delivery.

ARTICLE VII.

Organization.

The executive board shall attend to all business relating to organization of local assemblies, and shall carry on such organization either through its own members or through an organizer appointed by the president.

ARTICLE VIII.

SEC. 1. This constitution shall be printed and submitted to the local assemblies, who shall elect delegates under the provisions thereof and instruct their delegates thereon; and it shall require a two-thirds vote of all members of the general assembly to adopt the same, and when so adopted shall be binding on all.

SEC. 2. Amendments to this constitution may be proposed in any meeting of the general assembly. When an amendment is recommended by the general assembly it shall be printed and submitted to the local assemblies, who shall instruct their delegates thereon, and a two-thirds vote of the next session of the general assembly shall be necessary to adopt the same.

CONSTITUTION OF LOCAL ASSEMBLIES.

ARTICLE I.

This assembly shall be known as the "Producers' Protective Association" of ———.

ARTICLE II.

The members of this association shall be actual producers of petroleum and those who are engaged in industries incidental thereto, and known to be friendly to the producers' interests, who shall sign this constitution, pay to the treasurer an initiation fee of \$5, and pledge their sacred honor to do all in their power to build up and maintain this organization and keep its secrets inviolate.

Any person wishing to join this association shall make application in writing, setting forth that he is a producer of petroleum, or otherwise entitled to membership as aforesaid, and giving location of his production, if any, or his business, and shall accompany said application with initiation fee of \$5; said application shall be offered at a regular meeting, and shall then be referred to a committee of three, who shall report at a regular meeting, and, upon the reception of said report, a ballot shall be taken upon the application. If not more than two black balls appear the application shall lie over until next regular meeting; if three black balls appear, the applicant shall be rejected and an application from him shall not again be considered until after expiration of two months.

The member or members casting black ball or balls (when less than three black balls) shall give his or their reasons, in writing, to the president, who shall read the same to the members, but shall not disclose the name of the member, and shall destroy the writing immediately after reading.

The member or members giving reasons for casting black balls shall not vote at meeting which reconsiders original ballot.

When any member casts a black ball and fails to give his reasons to the president, as before provided for, it shall be the duty of the president to declare applicant elected.

Corporations and partnerships may have the benefits of this association by making written application, binding themselves to pay all assessments levied; to be governed by the rules of the association; to designate in their application such person or persons as they shall choose to represent them; these persons to take all the personal obligations, pay all regular dues, and vote and act as individuals only, at all meetings of this association. The persons above designated shall be voted for as is provided for other proposed members. *Provided*, That at all times this assembly shall consist of at least three-fourths of persons actually engaged in the production of oil, and it is understood that any person receiving oil as royalty shall be, and is, considered an oil producer wherever the term oil producer is used in this constitution.

ARTICLE III.

The elective officers of this assembly shall be a president, a first vice-president, a second vice-president, a recording secretary, a financial secretary, a treasurer, who shall constitute an executive board of six, and shall be elected at this meeting and semi-annually thereafter, at first regular meetings in July and January.

ARTICLE IV.

The president shall preside at all meetings and perform such other duties as ne may from time to time be called upon by this assembly to do, sign all orders for money upon treasurer, appoint all committees and all officers not otherwise provided for.

The first vice-president shall preside in the absence of the president, and perform such duties as the president would perform if present.

The second vice-president shall perform duties of first vice-president, during his absence and absence of the president.

The recording secretary shall keep a record of all meetings; shall draw and sign all orders on treasurer; shall conduct the correspondence of this assembly; shall have charge of the property of this assembly not otherwise provided for.

The financial secretary shall keep a correct account between the members and this assembly, collect all moneys due the assembly, and pay same over to treasurer, taking his receipt for the same.

The treasurer shall hold all moneys belonging to this assembly, and pay therefrom all orders signed by the recording secretary and the president, and keep an account of all moneys received and paid out, and shall give bond, the amount and bond to be approved by the executive board.

The executive board shall have a general supervision over the affairs of this assembly and perform such other duties as may be required of them by this assembly. They shall prepare and submit to this assembly a code of by-laws, which shall provide for and state time of regular meetings, how special meetings shall be called, and such rules and regulations as may be necessary for the government of this assembly not provided for in this constitution, and not inconsistent therewith; which by-laws, when adopted by two-thirds of the members present at a regular meeting, shall be equally binding as this constitution.

ARTICLE V.

The appointive officers of this assembly shall be an inspector, whose duties shall be to introduce candidates, examine all present at opening of each meeting, and report all present without the password to the president, and perform such other duties as may be required by this assembly.

A guard, whose duty it shall be to guard the door, tend all signals, admit no one, except by direction of the vice-president, and perform such other duties as may be required of him by this assembly.

ARTICLE VI.

Members may be expelled or suspended for violation of constitution or by-laws or neglect or refusal to comply with the rules or regulations, or for violation of the secrets of this association.

No person connected with "the Standard Oil Company" or any of its allies, as partners, stockholders or employes, and friendly thereto, shall be elected to membership, and members becoming such shall be liable to expulsion.

ARTICLE VII.

The yearly dues shall be \$2, payable quarterly in advance.

ARTICLE VIII.

All moneys required by this assembly, above the initiation fees and regular dues, shall be furnished by the members, corporations, copartnerships, and be assessed upon them in proportion to their daily production. Each member shall give to the financial secretary, on or before the 15th of each month, a statement of his average daily production for the preceding month and such other statistics as the association shall require: *Provided*, That no assessment under this shall be made, except at a meeting called for that purpose. Notice of which shall be given through the mail to all members of this assembly of the object of the meeting.

ARTICLE IX.

This assembly shall appoint delegates to the general assembly when the same is called and be subordinate to said general assembly.

ARTICLE X.

This constitution may be amended by giving notice of intended change at a regular meeting of this assembly; and if the proposed amendment is accepted by this assembly, by a two-thirds vote of the members present at next regular meeting, it shall be submitted to the executive board of the general assembly for their approval; and when approved by them, shall be submitted to all local assemblies for their adoption, and when adopted by two-thirds of all the local assemblies, it shall be an amendment to the constitution of all local assemblies.

EXHIBIT DK No. 2.

OFFICE OF THE EXECUTIVE COMMITTEE,
Bradford, Pa., March 6, 1888.

To the members of the P. P. A.:

GENTLEMEN: After having passed successfully through over four months of the time we deemed prudent to shut in a portion of our production, and to curtail drilling, we are pleased to again congratulate all members of our association for their cordial support and unyielding fidelity to our common interests.

We have accomplished much, and have much more to accomplish. Our production is upon a basis entirely satisfactory, but prices are not yet remunerative. You, gentlemen, understand the situation, but the speculative trade do not know and are slow to believe that we, as producers, can not make a success of our business unless we receive very much higher prices. The above fact has caused very heavy selling by that trade, which selling has, thus far, obliged those who are forced to market their oil as produced to do so at prices still very unsatisfactory.

The world looks on in surprise at the success of our movement but can not understand it. We know that five years ago most of the producers of to-day had a magnificent production in Bradford, the most profitable of all fields, and our wells were generally paid for. From the proceeds of their production we have made an almost universal failure in endeavoring to produce oil without loss in other fields, until our Bradford wells are nearly run dry and we find ourselves forced to seek much higher prices or retire from the business with nothing but junk.

On November 19 last, we inclosed with our letter to you a carefully prepared statement showing as nearly as possible the cost of producing oil from the fields of the present supply. The cost as then shown was 1.17½ cents per barrel, exclusive of the cost of the lands drilled. The amount thus paid was very large, but exceedingly hard to estimate. Certainly we should obtain \$1.50 per barrel, for our product to make our business one of reasonable profit. Previous to producing oil in Bradford the business was unremunerative at less than \$2 per barrel. Twenty-five and one-half per cent. of all wells drilled in 1887 were dry, and at least 50 per cent. of the balance

were small. We here reprint that portion of our November circular which refers to the White Sand fields for the benefit of those who receive this and did not receive that one:

WHITE SAND OIL FIELDS.

[This includes all Pennsylvania and New York fields except Bradford and Allegany.]

	Barrels.
Total gross production of premium oil, i. e., total produced from White Sand fields during the above period	13, 234, 535
Less average royalty to land owner, viz, one-eighth	1, 654, 317
Net oil to producer	11, 580, 218

TOTAL GROSS INCOME TO PRODUCERS OF WHITE SAND OIL.

From 11,580,218 barrels premium oil, at 73½ cents	\$8, 540, 410
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OUTLAY BY PRODUCER.

Cost of producing the above oil and drilling wells to keep up the production; also shrinkage of valuation or inventory of producing properties:

Cost of drilling in past twelve months of 567 wells in Kane and middle district fields, and fitting up the same, at average cost of \$3,000*	\$1, 701, 000
Ditto in Washington County and lower district, 1,097 wells, at \$4,250*	4, 652, 250
Cost of pumping and raising the oil and of cleaning out wells, etc., at an average of \$25 per barrel of production	3, 308, 633
Interest at 6 per cent. on investment, based on an average valuation of \$400 per barrel for producing properties	970, 056

Total net cost of producing the premium, i. e., White Sand oils, including drilling the above 1,664 wells to assist in keeping up the production	10, 641, 939
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If the production of the above fields had been maintained by the drilling of the above wells, and thus had prevented the shrinkage of value or inventory of these fields, the above figures would show a loss of but	2, 101, 529
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A gross inventory of these White Sand fields show that their production average was 10,038 barrels per day less during October, 1887, than it was during October, 1886, which figured at \$300 per barrel is	3, 011, 400
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This shows a net loss to the owners of the wells in these fields of	5, 112, 029
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Total net loss in the past twelve months to the producers in producing oil, and endeavoring to sustain their production without including money paid for oil territory to be drilled was in Bradford and Allegany fields.	2, 401, 532
White Sand fields	5, 112, 929

Total	7, 514, 461
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Or a loss of 28½ cents per barrel on the 8,508,789 barrels run to the credit of the Bradford and Allegany producers, and a loss of 44.1 cents per barrel (exclusive of the cost of the land) on the 11,500,218 barrels run to the credit of the producers of White Sand oil.

The very large amount of money paid for oil lands to drill should be added to the above losses in the White Sand oil-fields. As will be seen, the losses have been exceedingly large, exclusive of bonuses, which it is practically impossible to estimate. At 5 acres to each of the 1,664 wells completed, 8,320 acres have been drilled during the year. The bonus paid varies from a few dollars per acre to \$20,000 recently paid for a 5-acre lease at Saxonburg.

The production upon which the above figures are based is as follows:

	Barrels.
From Bradford and Allegany field:	
October, 1886 (average)	31, 471
October, 1887 (average)	23, 500

* We have before us a statement of the cost of completing eight wells in the Kane field, and they cost an average of \$3,324 each, and a statement of cost of eleven wells in the Washington field, and their average was \$10,093 per well. In each case the figures are as low as work could be done, and no allowance is made for expenses of the owners.

From total White Sand fields:

October, 1886 (average).....	45,530
October, 1887 (average).....	*35,300

In figuring the present valuation of production, suppose the fields to be owned by one company. This makes it quite plain that if for example the production of the Bradford and Allegany fields had shrunk about one-quarter in the past year, the value of the wells have shrunk correspondingly.

A very few men have made money, but this made the losses to be sustained by the others that much larger.

We now call your attention to the following tables exhibiting further facts confirmatory of the foregoing:

Table showing price, wells completed, production, exports and shipments from 1870 to 1886.

Year.	Price of crude.			Wells completed.	Per cent. of wells dry.	From White Sand fields.	From Bradford and Allegany.	Total production.	Daily average.	Exports. Crude equivalent.	Shipments from region.
	Highest.	Lowest.	Average.								
1870			\$3.78	1,644		Barrels.	Barrels.	Barrels.	Bbls.	Barrels.	Barrels.
1871	\$5.10	\$2.95	4.02	1,470		5,343,000	5,343,000	5,343,000	14,413	3,316,000	5,236,000
1872	4.75	2.95	3.89	1,201		5,277,000	5,277,000	5,277,000	14,256	3,801,000	5,065,000
1873	2.90	.90	1.90	1,364		6,504,000	6,504,000	6,504,000	16,094	3,722,000	5,900,000
1874	2.50	.71	1.65	1,341		9,850,000	9,850,000	9,850,000	27,099	5,777,000	9,500,000
1875	1.82	.70	1.24	2,341		11,104,000	11,104,000	11,104,000	29,616	5,402,000	8,822,000
1876	4.23	1.47	2.57	2,945		8,947,000	22,000	8,969,000	23,977	5,554,000	8,926,000
1877	3.69	1.57	2.34	3,939	16	8,759,000	884,000	9,143,000	24,460	6,080,000	9,584,000
1878	1.87	.80	1.17	3,064	12	11,834,000	1,346,000	13,181,000	35,370	8,315,000	12,496,000
1879	1.23	.63	.85	3,048	5	9,132,000	6,180,000	15,312,000	42,320	7,915,000	13,750,000
1880	1.24	.71	.92	4,217	3	5,818,000	14,017,000	19,835,000	55,003	9,900,000	16,226,000
1881	1.00	.71	.85	3,795	4	4,980,000	21,107,000	26,087,000	71,280	9,961,000	14,879,000
1882	1.37	.49	.78	3,333	5	4,304,000	24,582,000	28,886,000	78,950	14,804,000	19,865,000
1883	1.24	.83	1.07	2,949	9	5,890,000	24,232,000	30,122,000	82,520	14,574,000	22,358,000
1884	1.15	.51	.83	2,309	11	6,186,000	17,972,000	24,158,000	66,733	15,100,000	22,032,000
1885	1.12	.68	.80	2,857	13	7,585,000	15,852,000	23,437,000	64,702	15,395,000	23,302,000
1886	.92	.61	.70	3,525	17	7,711,000	13,175,000	20,883,000	57,240	15,892,000	23,807,000
1887	.90	.54	.69	1,738	25	13,066,000	12,015,000	25,081,000	68,714	16,362,000	26,203,000
						12,397,000	8,968,000	21,365,000	58,530	17,045,000	27,451,000

January production, 1888, 14,972 barrels per day from Bradford and Allegany, and 22,751 barrels per day from White Sands and Macksburg, or a total of 37,723 barrels per day or at the rate of 13,788,803 barrels for the year.

	Date of discovery.	Highest production.		Production first year after discovery.	Time production exceeded 1,000 daily.
		Year.	Amount.		
			Barrels.	Barrels.	
Oil Creek	1859	1869	3,762,500		
Pithole	1865	1868	1,095,000		
Central Allegany	1868	1871	1,083,386		
Butler and Armstrong	1869	1877	5,431,072		
Tidoute	1869	1873	895,983		
Clarion County	1871	1877	3,021,120		
Bradford	1875	1881	24,846,271		
Bullion	1876	1877	1,308,342		
Warren County	1876	1881	438,000		
Beaver District	1877	1880	102,956		
Allegany County, N. Y.	1881	1882	6,325,279		
Macksburg	1883	1886	706,000		
Cherry Grove	1882	1882	2,365,400	2,601,000	1 year 9 months.
Cooper	1882	1883	1,145,513	1,056,000	2 years 5 months.
Balltown	1882	1883	836,244	836,000	2 years.
Wardwell	1884	1884	731,226	731,000	7 months.
Thorn Creek District	1883	1886	3,268,000	1,560,000	Still on 1,000.
Kane	1886	1886	1,286,000	1,286,000	1 year 10 months.
Tarkill, Cogley, and Red Valley	1885	1886	1,065,000		1 year.
Washington	1886	1887	3,550,000	2,315,000	7 months.
Shannopin	1888	1887	691,000	600,000	2 years 3 months.
Pontius	1885	1886	730,000		Still on 1,000.
					1 year 5 months.
					1 year 10 months.

*The decline from October, 1886, to October, 1887, in White Sand pools as shown in the text occurred, notwithstanding their aggregate new production, as shown by the monthly reports, was 52,012 barrels from 1,641 wells during that time.

The foregoing table shows—

That the total consumption of oil last year (1887) was 27,451,000 barrels.

That the total production for last year was 21,365,000 barrels.

That the total production from White Sand fields last year was 12,397,000 barrels.

That the total production from all White Sand pools in any one year never was equal to one-half of last year's consumption.

That excepting the years 1873, 1874, 1877, 1886, and 1887, the White Sand fields never produced in any year one-third the amount of last year's consumption.

That the average yearly production from White Sand fields for the last eighteen years has been less than 8,500,000 barrels.

That during only the two years of Bradford's greatest production could we have accumulated stocks had the demand for consumption been equal to that of last year.

That during the past nine years 31½ per cent. of the production has been from White Sand fields, while 68½ per cent. came from Bradford and Allegany.

That during the entire eighteen years covered by the tables, 25,400 wells were drilled in the White Sand fields, the entire production from which would be equivalent to only five and one-fourth years' consumption upon the basis of last year. To illustrate the unimportance of these "gusher" wells, we may here note that 5,000 wells drilled per year—based on these figures—would be required to supply our shipments.

That the aggregate amount of the first year's production of the several White Sand fields developed since 1881, viz, Cherry Grove, Cooper, Balltown, Wardwell, Thorn Creek, Cane, Tarkill, Cogley, Red Valley, Washington, Shannopin, and Pontius is but 11,075,000 barrels, or less than five months' supply for present consumption.

That the great Black Sand fields (Bradford and Allegany) from which the steady production has been derived, and which has produced the great bulk of the oil hitherto, are gradually, constantly, and surely declining, so that now their utmost capacity is much less than one-third the present consumption.

That the White Sand pools have ever been, and may be expected to always be, short lived and limited in production. Their wells often come in as gushers, but prove so ephemeral that any hopes of great results based upon the initial production is doomed to disappointment in the small aggregate which rewards the producer for the development of such a field.

The tables tell their own story, and it is a story of the past. Whence shall come the oil to supply the constantly increasing consumption of the future? No producer expects that a second Bradford will be found, and we have seen that the White Sand fields can not be relied upon. When we shall have reduced the stocks above ground to an amount which should be a healthy reserve, without being an undue weight upon the price of the commodity (as we certainly will be by the 1st of November next), we shall have made the situation such that, under the ordinary relations of demand and supply, will assure us a remunerative price. It needs no argument to show in the light shed upon the subject by the foregoing tables that no probable development of the coming summer can prevent such a reduction of stocks.

In this connection it is proper to notice an erroneous idea which we learn is entertained by some traders in oil, to the effect that we have now 20,000 barrels of oil shut in, which we can at any moment, and presumably will on November next, add to the present production. But producers know that the natural decline of production from existing wells will of itself absorb the amount shut in unless offset by new production. A striking illustration of this fact is found in the year 1886. The average production for January, 1886, was 59,470 barrels; for January, 1887, 64,500 barrels, an increase of but 5,030 barrels, although the aggregate of new production as shown by the monthly reports during the year intervening was 94,450 barrels, showing that during the same time the decline of production from wells, old and new, must have been 89,420 barrels. By way of further showing the extent of the natural decline, attention is called to the following statement comparing the last four months with the corresponding four months of the year previous:

Production (daily average) for—		Barrels.
October, 1886.....		77,009
February, 1887.....		63,724
Shrinkage from October to February.....		13,285
New production added from 843 wells finished during the above 4 months (November 1 to March 1) was.....		27,717
The above shrinkage shows that notwithstanding this very large new production, it failed to maintain the output by the above amount, viz, 13,285 barrels.		
Production (daily average) for—		Barrels.
October, 1887.....		58,942
February, 1888.....		*40,000
Shrinkage from October to February.....		18,942
New production added from 418 wells finished during these 4 months.....		7,724

* Estimated.

The above shrinkage of only 18,942 barrels (including amount shut in) as compared with 13,285 barrels the corresponding months the previous year shows that at the present time we have but comparatively little oil actually shut in.

It will be noticed in the first case that the shrinkage named was over and above the 27,717 barrels of new production, and that during the past four months we have had 20,000 barrels less of new production, yet have shrunk our output by only 5,657 barrels more than the year previous.

This shows that the natural decline from October to February, last year, was 41,002 barrels (i. e., 27,717 new production and 13,285 net shrinkage). The total decline of the past four months has been 26,666 barrels (i. e., 7,724 barrels new production, and 18,942 barrels net shrinkage and shut in).

Had the natural decline for the last four months been proportional to that of the corresponding four months of the preceding year, it would now be necessary to open up our wells to their full capacity and to take measures to sustain them. But as much of the decline comes from the new production, especially in the White Sand fields, the old declining more slowly, and as we have had so little new production since the shut down, the percentage of decline upon the aggregate production is necessarily less than before. Competent judges among the producers, however, believe that the amount now shut in which could be produced does not exceed 6,000 barrels per day, and that it will be necessary by November 1, next, making all due allowance for probable new developments, to open up our wells to their full capacity to maintain the present output.

Such, producers, are the glorious results which your organization so far has achieved. Stocks have been reduced as rapidly as the most sanguine hoped. The limit set to daily production has been faithfully maintained. You have demonstrated that you see your interests clearly, that you appreciate the proper methods to advance them, and your ability to lay aside all prejudice and unite in fraternal and determined effort to execute those methods. Those who hug the delusive hope that we will falter or lose our cohesion in this great effort for the common good, build on the grossest ignorance of the character, intelligence, and ability of the men engaged in the business of producing oil. We congratulate you, that no signs of weakening are within your ranks, and that your organization has already made it an assured fact, that in the future you will be in position to compel a remunerative price for the commodity which your energy, labor, and capital brings to the markets of the world.

THE EXECUTIVE COMMITTEE.

TESTIMONY OF JAMES R. GOLDSBOROUGH.

JAMES R. GOLDSBOROUGH sworn and examined—

By the CHAIRMAN :

Q. Where do you reside ?—A. Bradford, Pa.

Q. What is your business ?—A. Producer.

Q. You have been present here this morning and heard the testimony of Mr. Kirk ?—A. Yes, sir.

Q. You are also a member of the Producers' Protective Association ?—A. Yes, sir.

Q. One of its officers ?—A. Yes, sir.

Q. I show you a circular and a copy of a resolution [handing same to witness]. Will you state if you recognize them as authentic documents ?—A. Yes, sir.

Q. You are there named as secretary ?—A. Yes, sir.

Q. Is that your office ?—A. Yes, sir. I will state to you, gentlemen, that of course under the constitution we are prohibited from naming the officers and the business transacted, but there has to be an official head of some kind, and I was designated as a member of the executive board to be that officer, and in consequence my name appears on these various instruments that were issued.

The circular and resolution referred to are as follows :

CIRCULAR.

I send you copy of rules and regulations which have been established upon the labor question by the executive and advisory boards, and approved by a convention

composed of representatives of our local assemblies. Your assembly will therefore conform thereto. The pay-roll will be sent you as soon as possible. In regard to what shall be paid to the persons proposed to be relieved it will depend upon the numbers and our resources, the latter upon the market. The more effective the stoppage of the drill is made the greater the sum will be to be distributed. The local boards, therefore, will please exercise great care in placing names upon the roll, and report the same as soon as possible, so that the grand aggregate can be ascertained. All your members and the recipients of the producers' bounty should be admonished as to their duty to aid in the stoppage of the drill.

I also transmit a resolution herewith passed by the convention, which the board hesitates to adopt until they know that no injustice will be done. They, however, would be glad to adopt it if satisfactory to those interested. I therefore ask all assemblies to consider and advise me of their action upon this resolution. If adopted it will greatly simplify the labor question, and add to our resources for those needing the same.

Yours truly,

J. R. GOLDSBOROUGH,
Secretary Producers' Protective Association.

RESOLUTION.

[To be acted on by all local assemblies immediately.]

Resolved, That while we approve of the plan submitted by the executive and advisory boards for the distribution of the labor fund, yet in our judgment we think it best that all producers should take care of their own employes, and that the entire labor fund outside of what is required for the relief of those out of employment should be devoted to the Well Drillers' Union, provided they stop the drill, and we request that it be so ordered.

Unanimously adopted by the convention.

Q. Have you in your possession a copy of the original contract entered into between the Producers' Protective Association and the Standard Oil Trust?—A. I have, sir.

Q. Will you produce it?—A. I will [handing the same to the chairman]. With that paper, sir, goes this bundle of names—a thousand names.

Q. Those are the names of the persons who were to sign this contract?—A. Yes, sir; and the authority for placing their names on that contract is given in another instrument which I will produce when you are ready for it.

Q. Is this an original or a copy?—A. Yes, sir; that is the original.

Q. Now will you produce the authorization for the making of these?—A. I have brought down a sample of the shut-in contract; I did not bring them all; there are 56 of them. They are just hectograph copies. That is a contract that was issued by the Producers' Protective Association in which we solicited the subscription of the people of the oil country to this contract with the Standard Oil Company.

Contract referred to is as follows:

Resolved, That this general assembly approve and recommend to the members of the Producers' Protective Association who are producers of crude petroleum, and to the producers of crude petroleum generally, the execution of the annexed contract, and that each such producer limit his or their production by at least one-half, and as much more as can be done without serious injury to their wells, and that the obligation of secrecy be so far removed as to permit the communication of this recommendation by the executive board (who alone shall have the privilege of making such disclosure) to those to whom application is made for signatures, and that every such person to whom application is made be pledged upon his honor to observe secrecy upon this subject.

Resolved, That those who sign this contract shall report the total production of wells operated by them on leasehold or in fee, and shall include no oil received as royalty.

Whereas the Standard Oil Company of New York have set aside 5,000,000 barrels of merchantable petroleum, at 62 cents per barrel, for the benefit of such producers as shall collectively limit their daily production by an amount at least 17,500 barrels less than their average for the months of July and August, 1887, for the period of one year, which 5,000,000 barrels is to be subject to the order of, and sale by, an executive board of such producers after such limit has been attained for three months following October 1, 1887, or such other time as may be fixed, and if sold before the end of the year, the net profits over and above the set price, and storage and interest to the time of sale, deposited with some satisfactory trust company until the end of such year and at that time paid over to the executive board for distribution, as provided by an agreement among such producers.

Now, therefore, the undersigned persons, corporations and copartnerships, producers of crude petroleum, in consideration of such agreement and the benefits to be derived therefrom, do hereby mutually agree, each with all the other subscribers hereto, that each of us will limit his or their daily production of crude petroleum as averaged from the pipe-line statements for July and August, 1887, by the number of barrels daily set opposite the name of each below, for the period of such year; such limit to be based upon all oil produced from wells operated by each, including royalty on the same. That for the purpose of determining such fact each subscriber hereto will furnish such executive board with the pipe-line statement of all oil produced by him or them, and state thereon what is royalty production and amount of such royalty, or in default thereof hereby authorize the executive board to obtain the same, or to examine the pipe-line books for such months of July and August, and for each and every month of such year, and the pipe lines are hereby by each of us authorized to deliver, on demand, to such executive board such statements, or permit the examination of their books. At the end of the year the net profits arising from such 5,000,000 barrels, and which may have been turned over to such executive board, shall be divided among the subscribers hereto ratably, and in proportion to the whole amount so limited by each, as compared with the whole amount limited by all, to be determined upon the statements and by the method set forth.

Provided, however, if any subscriber hereto shall not have limited his or their production, as herein agreed, he or they shall forfeit all interest in such profits, and the same shall be divided without regard to him or them. Such profits shall be determined by deduction from the amount so turned over to the executive board, the expenses of procuring and executing the agreement with the Standard Oil Company and this agreement.

Any transfer, sale, or assignment of or incumbrance placed upon the oil production or property of any party hereto, shall be made subject to the terms of this agreement and share in its benefits. If any party hereto shall purchase property, the owner of which is not a party to this agreement, such property shall not be subject to this agreement or share in its benefits.

In case circumstances occur which, in the opinion of any party hereto, will work disaster to his or their interests, if this agreement is adhered to, he or they shall have the right to apply in writing to the executive board to be relieved therefrom, in respect to the particular matter working such disaster, stating particularly and circumstantially the facts and grounds therefor. Such executive board shall, upon such notice as they deem proper to parties interested, determine such application, and their determination shall be final and conclusive upon all parties hereto.

The executive board provided by this agreement shall consist of those members of the executive board of the Producers' Protective Association who shall join in this agreement. The profits on 1,000,000 barrels of crude petroleum, together with the profits on an equal amount to be obtained, if possible, from the Standard Oil Company, shall go into the hands of the executive board, who shall distribute such portion of such profits as the local assemblies may need to make a dividend with those connected with our industries for their co-operation in curtailing production, drilling, etc. Any portion of such profits which shall remain in the hands of such executive board after the just demands of the local assemblies are provided for shall be divided in the same manner as the profits on the remaining 4,000,000 barrels. This contract is not to be operative until the number of barrels daily are agreed to be limited, required to secure the profits on said 5,000,000 barrels, and when so agreed the executive board hereby provided are hereby authorized to sign the contract with the Standard Oil Company in our behalf and in behalf of each of us; also to fix a date when this agreement is to take effect, of which date timely notice shall be given.

Q. This is the form of contract signed by the producers themselves?
—A. Yes, sir.

Q. And to which reference was made in the testimony of Mr. Kirk?
—A. Yes, sir.

Q. As being the shut-in agreement?—A. That is what we call the

shut-in contract. It was distributed all over the country and signed by the producers.

Q. And signed to the extent of about a thousand names?—A. I think it may have been signed to a much larger extent than that, but the way we figured it, after I became custodian of all these things, was, that there was, say, for instance, in the month of October, between 60,000 and 65,000 barrels of production, and that the signatures to this contract aggregated in the neighborhood of 40,000 barrels a day—a little over 40,000 barrels a day; so that really an individual signature on that contract, for instance the Union Oil Company there, may mean many people but only one corporation. Many people may be members of an association, but only one signature would go on the contract.

Q. Now, I want your explanation about some words here. For instance, I see the Trust Oil Company limited 22.4 barrels run. Is that the amount they produce?—A. The total production was 22.4 barrels.

Q. And they were to cut off one-half of it?—A. Yes, sir.

Q. And these figures given here refer to the proportion of production which these various persons were to cut off; is that correct?—A. Yes, sir; I have a kind of duplicated record; I had to have this book separated on account of the magnitude of the business. I can tell you anybody whose name you want to know, either individual or corporation, with the amount they have shut in. Those things are all under my charge.

Q. How much was the shut-in?—A. Eighteen thousand four hundred and eighty-six barrels.

Q. That went into effect on the first day of last November?—A. Yes, sir.

Q. Since that time has any addition been made to the amount?—A. Yes, sir; we are constantly receiving signatures, any time that anybody feels they want to sign. In fact there was a contract out there when I left for signatures.

Q. How much is the aggregate now?—A. When this last name was put to it, it would be slightly over 18,500 barrels.

Q. How much do you say it was on the first of November?—A. Eighteen thousand four hundred and eighty-six barrels.

Q. Then the additional signatures have not brought it up much?—A. Oh, it is a limited quantity.

Q. Mr. Kirk referred to another contract—a contract not to bore. Have you that contract with you?—A. Yes, sir; here is the copy of one of the originals [handing it to the chairman].

Q. Is this the paper?—A. Yes, sir.

The contract is as follows:

Whereas an agreement is being signed by the operators and producers of crude petroleum to limit their production of crude petroleum for one year from October 1, 1887; and

Whereas it is desirable for the improvement of the petroleum industry that all drilling should cease for the same period, as far as possible:

Now, therefore, each of the subscribers hereto, in consideration of such agreement and of the agreement by all other parties hereto, in like manner, as each such subscriber severally agrees, that he or they will not drill any more wells for oil or build any rig therefor for one year from September 3, 1887, except he or they be relieved from this agreement, in special cases of hardship, by consent in writing of the executive board of the Producers' Protective Association; or failing in obtaining such consent, after proper application, any subscriber to have the right to ask a board of arbitrators of three persons to be selected, one by the subscriber so applying and one by said executive board, and they to select a third person, whose decision shall be in writing and shall be conclusive upon all parties.

Q. There is still another contract?—A. Yes, sir; not to increase. These were taken out indiscriminately just as I put my hand in and

pulled them out. They are kept in that way. One contract means all. They are hectographed and all in my handwriting.

Q. Now, upon this shut-in contract are there the names of any persons who are not members of your association?—A. Yes, sir; that is not obligatory. Membership in the association is not obligatory upon the signers to the contract. That is distinct and separate.

Q. Are there any producers' names there? Are the names of any producers on the shut-in contract who are in any way connected with or controlled by the Standard Oil Trust?—A. Yes; I presume there are some names of members of companies that are perhaps members of the Standard Oil Company; presumed to be at least; and who are also stockholders in those companies. That is the way I understand it. Not that they control them at all, but they own stock in those companies.

Q. Has any person who is connected with the Standard Oil or Trust signed this agreement to shut in the production at a well of which he is in control?—A. No, sir; I have no such information as that.

Q. Now, I hold here the agreement about the drilling. Are there any persons, signers of this agreement, who are members of the Standard Oil Trust or interested therein?—A. You are asking me a pretty big question.

Q. I mean to your knowledge?—A. Not to my knowledge. I want to explain to you and to the committee that the drilling contract we esteem as an essential part of this movement, but the carrying out of that contract was left rather to the integrity of the people and had not been systematized as the shut-in contract had, because of the fact that upon the production in the months of December and January was predicated the fact whether or not we would obtain this 6,000,000 barrels of oil.

Q. Now, there is a third contract here not to increase?—A. Yes, sir.

Q. Now, upon that contract have any persons signed who are in the interest of the Standard Oil Company, or controlled by it?—A. No, sir; I think not.

Q. You have a contract also for an extra million over and above the amount stipulated in the first contract with the Standard Oil Company?—A. Yes, sir.

Q. Is that the contract [showing witness the same]?—A. Yes, sir.

The contracts last referred to are as follows:

BRADFORD, October 1, 1887.

Memorandum of agreement between the undersigned producers of petroleum, as follows:

Whereas the producers of petroleum, for the purpose of reducing the excessive stocks of petroleum now on hand, and to place their industry upon a permanently better basis, have signed a contract not to drill any well for oil within one year from September 8, 1887, and have also entered into a contract to reduce their production a stipulated amount for a month for one year; and

Whereas the undersigned, owing to the presence of salt water in their wells, and the use of gas-pumps, or for other special reasons, being unable to sign said contract to reduce our production, yet heartily desiring to co-operate in said general movement for the common benefit, hereby covenant and agree that we will not increase our production during any one month for the year said contract to reduce production is to operate.

Memorandum of agreement entered into this 1st day of November, A. D. 1887, between the Standard Oil Company of New York and T. W. Phillips, H. L. Taylor, David Kirk, Henry Fisher, Peter T. Kennedy, N. F. Clark, John L. McKinney, Rufus Scott, and J. R. Goldsborough, the executive committee named in the agreement herein-after first referred to, as follows:

Whereas by an agreement, bearing even date herewith, providing for the reduction of the production of petroleum of the producers named therein, to the extent of at least

17,500 barrels per day, for one year from the date thereof, as compared with the daily average production of said producers for the months of July and August, 1887, the said Standard Oil Company of New York has set apart 5,000,000 barrels of merchantable crude petroleum, to be sold upon the order of the executive committee of the producers named in said agreement, the profits thereof to be deposited with the United States Trust Company in New York City, in trust, to be paid over and distributed as therein provided; and whereas an agreement between the said producers, based upon the said last-recited agreement, provides for the setting apart of the profits of 1,000,000 of the said 5,000,000 barrels to go into the hands of the said executive committee, who are to distribute said profits upon the said 1,000,000 barrels of crude petroleum, whenever certain local assemblies may direct such distribution, to those connected with the petroleum industry, for their co-operation in curtailing production, drilling, etc.: Now this agreement witnesseth:

That the Standard Oil Company of New York, for the purpose of aiding the class of persons last referred to, hereby sets apart an additional 1,000,000 barrels of merchantable crude petroleum, at 62 cents per barrel, subject to storage charges, general average assessments, and interest upon the same, as also interest upon the price of said petroleum, to be sold by and upon the order of the said executive committee, or a majority of them, and the profits to be paid to the said executive committee, as sold, to be distributed to those connected with the petroleum industry for their co-operation in curtailing production, drilling, etc., the said profits to be applied pro rata to all contributing parties to the said movement to limit production, whether members of the Producers' Protective Association or not. The first one-quarter of the said 1,000,000 barrels may be sold at the end of three months from the date hereof, if the reduction of the production of the said producers to the amount of 17,500 barrels, as provided in said agreement, shall have been attained as therein provided, and thereafter the remaining three-fourths, in equal parts, may be sold at the end of each three months, or as soon thereafter as said executive committee shall determine, provided all the conditions of the first-recited agreement have been fully performed by said producers up to the date of each of said sales.

STANDARD OIL COMPANY OF NEW YORK,

[SEAL.]

By WM. ROCKEFELLER,

President.

GEORGE H. VILAS,

Secretary.

Q. You have had charge or had knowledge of the financial operations of this Producers' Association in its connection with the laborers, have you not?—A. Yes, sir; all the finances of the concern have passed through my hands.

Q. Will you state the amount of money which has been paid by the Producers' Protective Association on account of the support of labor affected by this shut-in?—A. I will state the amount affected and paid to the Well-Drillers' Union by this association. The other has been thus far paid through the local assemblies, as provided for in the contract.

Q. I mean the aggregate that you have paid out, no matter to whom you paid it?—A. You see, it is this way: We have paid in the neighborhood of about \$85,000 to the Well-Drillers' Union. Now, each one of these local assemblies has a treasury, and because of the fact that until the 24th day of February, at 11 o'clock at night, we had not earned this million barrels of oil, the disbursements have not been made through my hands; but the assistance rendered had been by these local assemblies to those absolutely in want. Many of them had not worked for a great while, but we took care of them out of charity. Of that amount I would be ignorant. I have pay-rolls which I will now submit to you. They contain names of people all over the country who have lost their positions and are not earning as much as will keep their families.

Q. Those are of the Well-Drillers' Association?—A. No, sir. These are the ones designated, and which have been overlooked by me, from the various assemblies, and checked off with the amount we will allow these men while being idle.

Q. You have paid out about \$87,000?—A. About \$85,000 to the Well-Drillers' Union.

Q. And in addition to that there have been payments by local assemblies of which you have no account?—A. Of which I have no knowledge; yes, sir.

Q. From what source did the Producers' Protective Association get the fund to pay \$85,000?—A. At the time the first pay-roll was due, the 1st of January, it was advanced by members of the association. So was it also on the 10th of February; a part of it in the month of March. But in the month of March there were 250,000 barrels of oil sold which netted us a revenue of about \$77,000. I think that is the amount.

Q. That amount was received from the trustees?—A. That amount of money was received from the sale of 25,000 barrels of oil.

Q. As I understand the testimony of Mr. Kirk, the certificates for this 6,000,000 of barrels of oil, or the proceeds thereof, were to be deposited with a trust company in New York.—A. Mr. Kirk made this statement—that the five millions were, but under the second agreement with the Standard Oil Company for the million barrels we had the privilege of selling it quarterly and the proceeds to be disbursed among the labor element.

Q. The proceeds were then to come from the Standard Oil Company direct?—A. No, sir; it is set aside in the safe of the Safe Deposit Company as the other 5,000,000 are.

Q. That is what I want to get at, who the person was that made the sale, settled the amount, and got the money?—A. That was the broker in the market. When we sold we simply sent them an order to send to this broker so much, and he would send us a statement of it.

Q. To whom did you send that order?—A. We gave them a memorandum that that order had been passed by the executive board.

Q. Gave who?—A. The Standard Oil Company; so that they would know we had the right to take that out. The action of the executive board would be the authority.

Q. You sent that to the Standard Trust Company?—A. Yes, sir; by a man we designated.

Q. And on that the man you designated got the certificate for 250,000 barrels of oil and sold it?—A. Yes, sir.

Q. Paying to the Standard Oil Company 62 cents and whatever charges there were, and the balance over went to your company?—A. Yes, sir.

Q. So there was no intervention of the trust company in that transaction at all?—A. Oh, no; they were simply the custodians of these certificates; that is all.

Q. Has there been any subsequent transaction of that kind?—A. No, sir.

Q. That is the only sale that has been made out of this million barrels?—A. Yes, sir.

Q. You stated your business was that of oil producer?—A. Yes, sir.

Q. That is, you are the owner of wells?—A. Yes, sir.

Q. And of course you keep track of the market there?—A. No, sir; I gave that up years ago. A man who is a statistician in the oil market generally goes burst; you can bet on that. If he minds his own business and sells his oil when he gets it, he will come out better than figuring on what he will get in futures. Setting up at night and figuring on figures that never come around is played out with me.

Q. Have you ever made any payments except to the Well-Drillers' Association?—A. What do you mean by payments?

Q. Payments out to any laborer.—A. No, sir; I have not. As I told you, the pay-rolls are all called for, sent out, and are under the supervision of the committee of each local assembly. They send out word to all the people in their vicinity that these pay-rolls are in their hands. Those who are in distress by this movement come there and present themselves, and when they are properly looked after these pay-rolls are returned to me. Now, out of the 36, up to the time I left, I think but 19 of them had received anything.

Q. Was that the first pay-roll you received?—A. Yes, sir; there was no possibility, as I said before, of our making a disbursement until we had established the fact beyond controversy that we had earned the 6,000,000 barrels.

Q. Then you have not made any disbursements to the laborers as yet?—A. No, sir.

Q. These are the pay-rolls [exhibiting them to witness]?—A. Yes, sir; up to my departure from Bradford.

Q. Can you tell me how much?—A. No, sir; we have had clerks figuring at them, and you can see that there are a great many changes made in them. We sent for the local man and talked these things over and reasoned with him a little.

Q. I have in my hand the pay-roll of Bolivar (New York) Assembly—23 persons—under the head of “cause of discharge, shut-down.”—A. That is not a literal truth. Any man who was a roustabout, for instance—that is, a fellow who is only a periodical worker on wells and works only when the opportunity presents itself, by virtue of the discontinuance of working in certain localities, his jobs are less frequent than formerly; and so he says he is injured to such an extent by the cause of the shut-down—the cause of discharge and shut-down. He is not discharged at all.

Q. I simply state what the paper shows.—A. Yes, sir; that is right.

Q. Under the column, “number of families dependent upon the applicant, 83 persons; total amount of payment ordered, 501.50, Clarendon Assembly,” state the name of each assembly and the amounts allowed upon the pay-rolls produced and offered in evidence, and the number of persons in each pay-roll to whom allowances are made, and the cause of their discharge or being out of work.—A. I can not furnish them without taking time to go over them, but I will do so hereafter and will send a sworn statement to your committee.

Q. Have you detailed statements of the amount produced, the amount of oil tabulated—statements alphabetically arranged?—A. I have books, as I have said, but I can not get the books in there. This is the size of the book [exhibiting it to the chairman]; they are now all bound. That thing run to page 39. I found that the business had increased to such an extent that I took half of the book and sent it away and had it rebound. This is the book of entry; we used it as a kind of a blotter.

Q. Does this book which you now produce contain the names of all the persons who have united in this shut-in contract?—A. Up to the time that the new books came in use.

Q. Up to December, 1887, it says there.—A. I think this was not done really until the 20th of January. We had been using this book up to the 20th of January.

Q. You may state how the figures contained in this book showing the total production, the amount to be shut in, and the amount to be produced, are to be arrived at.—A. Under the contract between the producers themselves their production for the months of July and August as taken as a basis of what their production should be for the year of

the shut-in. Now you take the pipe-line runs for the months of July and August, and the difference between the stock on hand on the first day of July and the 1st of September, and we have a decrease of stocks; if you would subtract that from the runs and divide by sixty-two days it would give you a daily production. If an increase of stock, it would be added to the runs, and divided by sixty-two would give you a daily production.

Q. That is, you have a report which gives you what you call the daily runs?—A. Yes, sir; I have not a daily report. Now take, for instance, some of these small accounts—E. A. Adams, for instance—and I will show you how we work it up, if you would like to see. I merely mention his name because it is the first one on these stocks. His number is 10.

Q. I see here Ames & Co.—A. They are No. 2. They do not render any stock statements like this. They make out their own statements.

Q. Give me another one that you have?—A. Here is the same thing—C. H. Ames & Co. Now on the first day of December they said that they had 650.02 on the ground in their tanks; on the first day of January, 455.81 on the same property, and that, therefore, they had a decrease of 194.21. They had run in the tide-water pipe lines during that month of December 542.53, from which must be subtracted 194.21, leaving a net production of 348.32 for the month—a daily production of 11.24 barrels.

Q. That is, you keep a sort of a balance sheet?—A. I know what every man produces during that month which passes under my personal supervision. Take, for instance, that statement you have in your hands. If that man overproduces, he gets a notice; if he has under-produced he does not get a notice. If he exceeds his limit, he gets a notice to curtail his production during the coming months.

Q. Then monthly you get from all the subscribers of this shut-in contract a statement?—A. I do, sir.

Q. That statement you correct by information obtained from the pipeline company of the amount which they have run for that particular period?—A. Yes, sir; they only give me their stocks on their leases, and I go to them and take a statement of what has been run. Then I make up what their production is per day to conform to my books.

Q. You require them by notice, then, in case they have produced more than stipulated in this agreement, to reduce the production the following month, so as to make up the average?—A. Yes, sir.

Q. Have there been any cases in which men have overproduced?—A. Yes, sir; a large number. For instance, many people unintentionally would overproduce one one-hundredth of a barrel a day. It made no difference, but when the clerk ran down the column if the man had only one one-hundredth of a barrel overproduced he would get a notice.

Q. As the result of that, what has been the curtailment of the production from the wells, averaging it?—A. I want to make one thing explicit to you gentlemen. Out of a gross production of about 41,000 barrels there were to be curtailed about 18,500; that is as between ourselves. In the month of November there were 18,143 barrels. The average for the months of December and January was 19,985.62 barrels. For the month of February the curtailment was 18,386.12 barrels.

Q. And for the month of March?—A. It has not been computed yet. Generally I do not get through with that before the 20th or 25th of the month.

Q. Compare November, December, January, and February with last year, or did you compare them with those months in order to ascertain

the curtailment?—A. Oh, no, sir; we started with the basis of July and August.

Q. July and August, 1887, and the curtailment was to be based on that production?—A. Yes, sir.

Q. As compared with the four calendar months of the year 1886-'87, November, December, January, and February, what was the difference of production in the months of November, December, January, and February last past?—A. The daily average for the months of November, December, January, and February?

Q. Yes. I want to contrast the production of the four months since this agreement has been in operation with the four months of the preceding year.—A. I did not have anything to do with the four months of the preceding year.

Q. Have you any data that would enable you to do it?—A. No, sir.

Q. Of course the statistical papers out there print all that?—A. You could perhaps get it; but when I went in it was entirely a new thing and I paid more particular attention to getting that part of it than to know the past. We hoped the past was dead.

Q. You are a member also, I suppose, of a local assembly?—A. Yes, sir.

Q. Has your local assembly made any payments to laborers?—A. Yes, sir.

Q. Other than the oil-well drillers?—A. They don't make any payment to the well-drillers' union.

Q. The payments that you have made, or that your assembly has made, have been to individuals?—A. Yes, sir.

Q. State what the character of the occupation of the individuals thus relieved was, in relation to the shut-in.—A. Pumpers and roustabout men who had families sick and impoverished. That was a source of relief to them and we did not withhold it. It was in our community and we thought we could well afford to allow them that.

Q. For what did you pay them?—A. For charity's sake.

Q. Did you give them any occupation?—A. We had not it to give; we gave them money instead.

Q. Did you give it to them upon any condition that they should remain idle and not go to work for other people?—A. Not at all.

Q. Did you give them any work in going around to satisfy others to remain idle?—A. Well, no. Now I am speaking with relation to the local assembly. I have very little to do with that, being principally engrossed with the carrying out of the general contract, and of the details of the local assembly I would know but very little indeed about it—very little.

Q. Where did the local assembly of which you are a member get the funds from which it made these payments to laborers?—A. From the initiation of its members, and dues, and such as that.

Q. Any other source; any outside source?—A. No, sir; I think not; I am sure not.

Q. Can you state what the average annual demand of the market was for crude oil; how much it used up during the year 1887?—A. No, sir; I never amused myself with looking that up. I had other fish to fry. I was too busy earning a living.

Q. Have there been any sales of any part of the 5,000,000 barrels of oil?—A. You say "5,000,000" No; there has not been.

Q. That is, under the first contract?—A. No, sir; there has not been.

Q. As you understand, by the terms of that contract there are to be

no sales of that?—A. We can sell it whenever we please, but we can not distribute the profit. That is, I say, we can sell it when we please. We can now sell it whenever we please.

Q. You know of this agreement made between the producers' association on the one part and the executive board of the well-drillers' union on the other?—A. Yes, sir.

Q. I call your attention to this clause:

This agreement as to benefits and advances and the stoppage of the drill shall continue in full force until the 8th day of September, 1888.

A. Yes, sir.

Q. Will you explain, please, what you understand to be intended to be covered by that provision?—A. If you take that drilling contract there, you will find that that is the contract in which the 8th day of September is named as one year from September 8. That was the date of the ratification by the general assembly of that contract. We did not antedate nor did we dare to put it forward; so that nobody could claim they had rigs built and that sort of thing.

Q. So that that date, the termination of the year, was fixed with reference to the date of the contract not to drill which your association had made?—A. Yes, sir.

Q. But that date does not agree with the date at which your contract with the Standard Oil Company expires, as you understand the shut-in contract?—A. No; the contract with the Standard Oil Company has no reference to drilling.

Q. Now, you also reserved a right to terminate this contract on the part of your association by giving a ten-days' notice.—A. Yes, sir.

Q. "And no obligations to pay or make advances shall exist after the delivery of said notice." Will you state what was intended to be provided for by that clause?—A. I was not present at the preparation of that contract; and as to the design of the originators of the contract I would scarcely know. The contract was delivered to me, after having been confirmed at a meeting not held in Bradford, and by me promulgated, or issued and prepared and sent out as it is there. It is simply a copy of what was handed me. What the original intention of the designers was, I do not know. I was not there at that meeting.

Q. Were you one of the original organizers of this producers' association?—A. I did not come into it until the latter part of August; it was the last week in August, I guess.

Q. Can you state the largest amount that has been shut in in one day under this shut-in contract?—A. No, sir; we take an average on the month.

Q. What was the price of oil on the 1st of November, 1887?—A. That would be simply a matter of guess-work. I have not it in my mind; I think in the neighborhood of 70 cents; somewhere about there; I don't remember exactly. The reason I am not so familiar with the market is that I have never bought a barrel or sold a barrel. I have attended to my legitimate duties, as I understood them, and have tried to fix these things up and systematize them. That was my branch of it and I have endeavored to do it.

Q. I understand that by the agreement the division of the ultimate profits that may result from the sale of these 5,000,000 barrels of oil, or the 4,000,000 out of the 5,000,000, is to be divided pro rata among the producers who have shut in to the same extent as they have shut in.—A. No; the amount or limit agreed upon.

Q. The limit agreed upon?—A. Yes, sir.

By Mr. SMITH:

Q. Can you now sell your product to any person you wish—the product of your wells?—A. That depends somewhat upon the quantity that you have of that. For instance, if I have a sufficient amount in the pipe lines to go there, and take it out in certificates, I can go there and sell the certificates to whom I wish.

Q. I mean right at your wells?—A. No; I am not located so that I can.

Q. Any one of your union?—A. There are people who have wells close to refiners who have limited amounts. Take them as a whole—no.

Q. It is to your advantage to dispose of this product of yours to the Standard Oil Trust, is it not?—A. Or somebody else who will pay equally as much.

Q. Somebody can not pay equally as much on account of not having facilities to transport; is not that so?—A. Yes, sir; except these little fellows I am talking about; they can pay a little bit more.

Q. How is it that they can pay a little bit more—the small manufacturers?—A. If I own a refinery and it was over here, and if you owned an oil well over there about three or four hundred feet away, you can run that oil to my factory without pipe, and I, as a refiner, would be willing to give you a little more than the limited price, because I would be saving something more.

Q. When it comes to the refined product in the market, the small refiner would have a large competitor in the Standard Oil Trust?—A. Yes, sir.

Q. And he would be handicapped there?—A. Mr. Smith, these questions that you are asking me are rather hypothetical questions. I am swearing to what I know, and I am willing to stand to all I do know; but when it comes down to a question of abstract and all that sort of thing, that is something else. I do not want to deny any question you ask. I will do the best I can. I will give you any evidence that is within my knowledge.

TESTIMONY OF MR. KIRK—Continued.

Mr. KIRK again resumed the stand.

By the CHAIRMAN:

Q. Has there arisen any difference between you and the officers of the Standard Oil Trust with regard to this agreement since the formation, to your knowledge?—A. Not officially. We understand that we are to have the assistance and advance in the price, and we do not seem to have gotten it. That is about all I know.

Q. Then there is a difference arising out of supposed?—A. (Interrupting.) I can not speak of anything more.

Q. Have there been any conferences upon that subject between the trustees and yourself?—A. Yes, sir.

Q. Which one of the trustees of the Standard Oil Trust have you met on that subject?—A. I had a conversation with Mr. Brewster.

Q. What is Mr. Brewster's connection with it?—A. I think he is vice-president; I do not know whether of the big thing or the little thing, but some of the things. He is vice-president of something—that is what is on his door.

Q. In New York?—A. I do not know whether it is the Standard of New York or Cleveland, or the Standard National, or what. He is the

main representative of the Standard that we met in making this contract.

Q. Had that conversation anything to do with any other matter than the question of price?—A. That was all.

Q. And did you, as the representative of your association, call to see Mr. Brewster?—A. I went as an individual; I was not appointed to go there.

Q. Did you with the knowledge of the other members of the executive committee?—A. No; I did not.

Q. They did not know of it?—A. No, sir.

Q. It was not in pursuance of any action on their part?—A. No, sir.

Q. How recently was this?—A. During the present week.

Q. That was after the drop in oil which occurred last week?—A. Yes, sir; it was Tuesday. We put refined up to 70½ cents, and maintained it at that, and on that basis we understood that we were to get 96 cents if it had gone down to about 78 cents.

Q. And you went there to protest?—A. Yes, sir.

Q. Did Mr. Brewster afford you any explanation as to how that should be changed?—A. No, sir.

Q. What explanation did he give of the situation of the change in the market?—A. He said there was no change in the markets of the world; that they could get the price for refined, but they did not propose to hold up the price of crude; if we could not do that they could not help it.

By Mr. BUCHANAN:

Q. In other words, he evinced his ability to hold up the price of refined and his inability to hold up the price of crude?—A. Yes, sir.

Q. Had refined to sell and crude to buy?—A. Yes, sir.

By the CHAIRMAN:

Q. Did what he say refer to his inability or his unwillingness to do it?—A. Both.

Q. He did not propose to do it?—A. I will say personally that I regard their giving this million as a bluff; that they had no thought that we could organize, a rabble like we were, and carry it into effect, and that they fear we are going to get power to equal them.

By Mr. BUCHANAN:

Q. Did you say that, or is that your belief?—A. I told Mr. Brewster that; that I regarded that to be so.

Q. What reply did he make?—A. He said I might believe what I pleased; he didn't care.

TESTIMONY OF MR. GOLDSBOROUGH—Continued.

Mr. GOLDSBOROUGH again resumed the stand.

By the CHAIRMAN:

Q. (Exhibiting to witness sheet number 38). This is the form upon which you keep the list of the producers who are signers of the shut-in contract?—A. Yes, sir.

Q. And the way in which the statement is made up monthly of the production?—A. Yes, sir.

Q. And it is from the statement as thus made which enables you to know whether they have produced more or less than they are permitted to?—A. Yes, sir.

The sheet referred to is as follows :

Production.

								1887.	1888.											
Name.	Residence.	Post-office address.	Member of assembly. (Number.)	Signature on contract. (Number.)	Total production for July and August, 1887. (Daily.)	Amount to be shut in. (Daily.)	Amount which can produce. (Daily.)	November.	December.	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	Total.

Memorandum of agreement between the Standard Oil Company and producers.

Memorandum of agreement, made this 1st day of November, 1887, between the Standard Oil Company of New York and the following named persons, partnerships, and corporations, producers of crude petroleum, Thomas W. Phillips and others, whose names will be found in the schedule hereto attached and made part of this agreement, as follows :

Whereas there has accumulated, in past years, an excessive stock of crude petroleum, which is deteriorating in quality, and a portion of which each year becomes sediment, valueless for any purpose, and the carrying of which excessive stock requires the expenditure of vast sums annually ; and whereas in consequence of the existence of said stock the price of crude petroleum has for the past year been largely below the cost at which the same was produced ; now, in order, as far as possible, to preserve the said stock from further waste and to conserve the public interest and our own, this agreement witnesseth :

That the Standard Oil Company of New York will set apart, at 62 cents per barrel, and hold for the use of the above-named producers and those who shall hereafter become parties to this agreement, as hereinafter provided, 5,000,000 barrels of merchantable crude petroleum, of 42 gallons each, to be sold and disposed of in the manner hereinafter provided. The said 5,000,000 barrels of petroleum to be subject, until sold by the said producers, to the usual assessments, storage charges, and interest upon the same, as also interest on the price of said petroleum, at 62 cents per barrel ; said assessments, charges, and interest to be added to the price aforesaid.

In consideration of which the above-named producers agree to limit their production of petroleum that for the year next ensuing from this date, they or any number of them shall, for said year, collectively produce at least 17,500 barrels of crude petroleum less per day than they or any number of them collectively produced per day for the months of July and August, 1887, and that they will use every reasonable endeavor to control their production so that the same shall be in the aggregate 30,000 barrels less per day than it was during the said period of July and August, 1887.

If at the end of three months from the date hereof the said reduction of 17,500 barrels per day shall be attained, to be measured by taking the average production of the above-named producers for the month of December and January next and comparing the same with their average production for the months of July and August, 1887, a statement of the same being hereto attached and made part of this agreement, then the said 5,000,000 barrels of petroleum shall be delivered as fast as the same shall be sold by, upon the order, and for the account of, said producers through their executive committee appointed by agreement between themselves, and hereinafter named, to be paid for with interest and storage as delivered ; that the profits aforesaid upon said 5,000,000 barrels of petroleum as sold, in accordance with the provisions of this agreement, shall, by said Standard Oil Company and said producers executive committee, be deposited with the United States Trust Company, in New York City, until the expiration of one year from the date hereof, in trust, in accordance with and subject to the provisions of this agreement, and in case the above-named producers or any

number of them shall not have lessened their production 17,500 barrels per day for said year as aforesaid, then all of said profits upon said 5,000,000 barrels of petroleum shall belong and be paid to the Standard Oil Company of New York, and in case the said above-named producers or any number of them collectively shall have lessened their production 17,500 barrels per day for the said year as aforesaid, then the entire profits aforesaid upon the 5,000,000 barrels of petroleum shall be paid to said producers executive committee, to be by it distributed in accordance with agreements between themselves to such of said producers as have fulfilled the terms of this agreement, and all agreements between themselves relating to such distributions.

The said producers are guaranteed by said Standard Oil Company of New York against loss within said year upon said 5,000,000 barrels of petroleum. The lessening of 17,500 barrels per day above provided shall embrace and include any reduction or lessening of production by producers who shall sign contracts not to use means to increase their production by drilling or otherwise.

Producers may become parties to this agreement within the year the contract is to operate by signing the agreement between producers authorizing the executive committee to sign this contract on their behalf, and having their names added hereto as parties by said executive committee.

The following-named persons constitute the executive committee above referred to, to wit:

(Names omitted by consent of the chairman.)

Mr. KIRK. I would like to say one word more, with your permission, and that is that in regard to our testimony we were legally advised that we were under no obligation to expose private business here, and to stand upon our rights. But all of our board present, and such as were called for consultation, resolved that we had nothing to be ashamed of, but everything that we were proud of, and therefore we regard this as voluntarily coming here to give this testimony. I want that understood. The only objection we have made to furnishing anything is a mere technical one on the matter of our obligation, and if we had time to have got our general assembly together, and the proper authorities, there is no doubt we would have been relieved even of that. We are willing to lay everything we have done before the world as a public necessity for ourselves and our country, to get just compensation for an article that we are entitled to; that we were never meant to be slaves to work for nothing. In that arrangement we provided, which I think is unexampled, that all the labor should be taken care of; that no man should suffer in the ranks of labor from our stoppage to produce.

By Mr. SMITH:

Q. Then, Mr. Kirk, you were compelled to combine against this large combination of the handlers of the product?—A. That, and circumstances; that, and our failure to get the territory to produce in competition with those stocks. They attributed it alone to our stocks, and we saw there was reason in it when it was called to our attention. They had to be sold before we could get a price, and with the present territory we could not produce them at the price. Give us territory and we will give it to you cheaper and cheaper.

Q. Is the oil to such a figure now, or as low a figure now as it ever was?—A. Yes, sir; the average of last year was the lowest in the history of the business.

Q. And that arose from this great surplus on hand?—A. Yes, sir; that is the cause. We thought even with that surplus, with just rates of compensation, we could live.

By the CHAIRMAN:

Q. Will you tell us what you find in the present rates of transportation to complain of?—A. We are charged 20 cents for pipage from the wells. It is a mere local gathering.

By Mr. SMITH:

Q. Twenty cents for what?—A. A barrel.

Q. How many miles?—A. Sometimes half a mile, sometimes 10. It is just the uniform rate of gathering from the wells to the central station of either the through pipe line or a railroad, as the case may be.

Q. You could almost send it by mail as cheap [laughter]?—A. Yes, sir. Previous to the securing of the lines by the Standard there was a multiplicity of lines—a number of lines. The nominal rate was 30 cents for that service, but by competition the actual rate was down to 5 or 10 cents. They consolidated and placed it at 20 cents, and it has remained at 20 cents, I think, since the year 1876.

Q. That is about one-third of the price, is it not?—A. Yes, sir; one-third. The whole process of transportation has been cheapened. Pipe that cost 45 cents a foot has in that time been got for 10 cents. The quality of the pipe was improved so that there is not the leakage or the wastage. There are all those improvements and inventions that have cheapened it. We pay the same now as we did fifteen years ago. We have reduced the cost of our wells at least 100 per cent. They have reduced nothing.

By Mr. BUCHANAN:

Q. You don't mean 100 per cent.?—A. I mean 50 per cent.

Q. You could get your wells for nothing if you did that?—A. That is right.

Q. You mean you reduced that one-half?—A. Yes, sir; there is no reduction where there is no competition.

Q. Have you sufficient information and data to give this committee an idea of what would be a fair return upon the capital invested in a series of gathering lines, as you may call them?—A. I think during the Billingsley bill—I have forgotten the data, but I can get it—they placed the nominal cost of their lines at \$30,000,000. We estimated that they got a gross income of \$20,000,000 from that; that certainly not more than \$5,000,000 was running expenses, and therefore they were making 50 per cent. on the transportation of this oil. They got \$20,000,000 in gross for the year 1876 for transportation, and we got \$18,000,000 for furnishing the lands, the wells, the risks, the chances everywhere. With more pipe—three times more than the proportion they had to transport, which cost ten times, I suppose, the proportion—we only got \$18,000,000, our gross earning of the whole country, and they got \$20,000,000 of the production of oil alone.

Q. Is it your opinion that 10 cents on the barrel would pay a fair return upon the capital necessary to construct and operate those gathering lines?—A. Yes, sir.

Q. Would the increased efficiency of the pipes, and the decrease in the cost of the material of which they are composed, probably be less than that?—A. We think 5 cents would be sufficient compensation.

By Mr. SMITH:

Q. For what distance?—A. For this 20-cent charge we think 5 cents would be a fair compensation.

By Mr. BUCHANAN:

Q. To afford a fair return on the capital invested?—A. Yes, sir.

Q. You are paying 20 cents?—A. Yes, sir. [Turning to Mr. Goldsborough.] Do you recollect the price that was fixed, Mr. Goldsborough?

MR. GOLDSBOROUGH. First it was 12½ cents, and they finally fixed it at \$1.15.

By Mr. SMITH:

Q. What is the price to transport a barrel from this oil district to New York—to the sea-board?—A. There is no open tariff that I know of.

By Mr. BUCHANAN:

Q. The owners of the line buy the oil and transport it?—A. Yes, sir.

By Mr. SMITH:

Q. You do not know what it could be transported for at that distance?—A. No, sir; I think they maintain a difference in the prices between the ports of 50 and 60 cents; that is, they get 50 or 60 cents for taking it to New York; that is my recollection.

Q. Do you think that this oil could be forced through the pipes to New York for 5 cents a barrel?—A. That is all a guess. I think the running expenses would not be much more than that.

Q. I mean where this 6-inch pipe, as you say, is a main pipe. Could the oil be transported to the seaboard or to New York for 5 cents a barrel?—A. Of course there would be interest on the investment, etc., and profit. I am merely speaking of the running expenses of pumping. I think it could.

Q. What is the freight per barrel on cars to New York?—A. That I do not recollect. Whatever it is, it is comparatively nominal. The Standard does not need to give a barrel to any railroad. It has capacity to take it out.

Q. What it can not take by pipe it can take by the tank lines?—A. It can take all by pipe.

Q. A great deal of oil comes out West to our city—I know, at least, all of it, so to speak, except in the summer season, when the navigation is open on the lakes—in these tank cars. Now, is that refined oil?—A. What city do you mean?

Q. Milwaukee.—A. Yes, sir; that is refined oil. The oil, I presume, that reaches you is pumped by pipe lines to Cleveland, or possibly Pittsburgh. It is there refined and loaded in bulk cars and sent to Milwaukee.

Q. The cars are branded "Union Tank Company;" "Tank Line Company?"—A. Yes, sir. There is another matter I desire to call to the attention of the committee. I think one thing you should do is to apply the principles of the interstate commerce law to pipe lines, the transportation of oil by pipes, making them common carriers and subject to regulation.

Q. I understand your testimony to state that they claim to lay their pipes under eminent domain?—A. Yes, sir; the same as a railroad.

Q. They are interstate?—A. Yes, sir; and in a year they are going to become more so.

By the CHAIRMAN:

Q. Do you know what the cost of transportation of crude oil from New York to the sea-board was before there was any pipe line?—A. The rates were \$1.90 cents a barrel, and I think reduced to 80 cents before there was any pipe line.

Q. What was the price of crude oil when the freight was \$1.90 out in the oil country?—A. Here is the price from 1861; I do not know exactly what year. I should say it was \$1.90. The open rate I recollect was \$1.90 in 1877.

Q. What was the price of crude oil per barrel in 1877?—A. Two

dollars thirty-eight and three-fourth cents; but the very next year, in 1878, it was down to \$1.16.

By Mr. BUCHANAN:

Q. Do you know the weight of a barrel of oil?—A. Three hundred pounds was fixed at one time by some people, and 360 by another—the railroad rate.

By Mr. MCKINNEY:

Q. How many gallons are there in a barrel?—A. Forty-two gallons in a barrel.

Q. Eight pounds to the gallon?—A. I think 8 pounds.

TESTIMONY OF E. F. HOWES.

E. F. HOWES sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. Olean, N. Y.

Q. What is your business?—A. Merchant.

Q. Are you treasurer of the Oil Well Supply Company, Limited?—A. Yes, sir.

Q. Where does that company carry on its business?—A. New York, Pennsylvania, and Ohio.

Q. Does the company or yourself in any way belong to any of these associations?—A. No, sir.

Q. What is the nature of the business?—A. Manufacture and sell oil-well supplies.

Q. That means pipe?—A. We don't manufacture pipe.

Q. You sell pipe?—A. Yes, sir.

Q. What else is covered by that?—A. Almost all material that goes to make an oil well or drill. We manufacture drilling tools, drills, sucker-rods, and fittings for steam, gas, water, and oil.

Mr. BUCHANAN. You furnish the *whole* except the *hole*? [Laughter.]

The WITNESS. Yes, sir; and the tools to make the hole with.

By the CHAIRMAN:

Q. How long have you been in that business?—A. Since 1872.

Q. You are familiar with the whole tract covered by this oil-producing region of New York and Pennsylvania?—A. Yes, sir.

Q. Do you do business through it?—A. We do business all through the oil regions of New York and Pennsylvania.

Q. In the transaction of the business of the company do you travel through that country?—A. Yes, sir; sometimes.

Q. Have you been through it recently?—A. Not for a month or two.

Q. Have you been there this year?—A. Yes, sir; not all over it, but over different parts of it.

Q. What has been the condition of your business in supplying materials for boring wells during the last four months?—A. Our business has been very light, indeed.

Q. And has it been noticeably light since the formation of these associations?—A. Yes, sir.

Q. I have an estimate of a diminution of business to the extent of five or six thousand dollars a month as compared with former years; is that correct?—A. It is a great deal more than that.

Q. What do you think the diminution has been per month for the past four months?—A. I do not think we have sold one-third of the amount of goods that we did previous to that.

Q. How is the condition of general business throughout that section?—A. Very light.

Q. Has it been noticeably so since the formation of this association?—A. Yes, sir.

Q. As compared with former years, what would you say it averaged?—A. I can not say as to that.

Q. Has the general business suffered as much as your business?—A. I do not think it has.

Q. Not quite?—A. No, sir.

Q. What has the population of that section of the country done? What has been its business connected with this oil?—A. Producing oil almost altogether.

Q. Very little farming business?—A. Not very much. There has been some lumbering.

Q. But the laboring population have found their source of employment in connection with this business?—A. Yes, sir; largely.

By Mr. SMITH:

Q. Is the nature of the country such that it is not fit for cultivation for farming?—A. A large portion of the country where oil is produced is very hilly, rocky, and mountainous, and in some places it is covered with forests. In other parts there is some land that could be cultivated. In Allegany County, N. Y., there is a great deal of that under cultivation; and in Butler and Clarion Counties.

Q. Are those all heavy oil-producing counties?—A. They are all oil-producing counties. The largest production of oil has been in McKean County.

Q. In the State of Pennsylvania?—A. Yes, sir.

Mr. GOLDSBOROUGH. I wish to illustrate somewhat about this labor business by my own case. I am not mentioning it here boastingly, or anything of that sort, but only to show you the sentiment which prevails in the community where I come from. It is this: I am a small producer, an insignificant man in the country, I might say. I have four men taking care of this little property I have. In furtherance of the contracts which we had issued and agreed upon I retain these four men, paying them exactly the same wages they had before, and requiring them only to do that which is requisite to get the proportion of oil that I agree to limit my production to. I have not been on the lease to superintend it as much as formerly, but previous to the time of the agitation of the "shut in" I was there almost every day, personally. My case alone is a very little one to a large majority of the producers of the country.

By Mr. SMITH:

Q. Mr. Goldsborough, let me ask you right here. You spoke about a lease. What is that lease? How much is that lease? How many acres?—A. This lease was property formerly belonging to the Bingham estate, the heirs of whom are English people—I believe it is traced back hundreds of years—and they give these leases at graded royalty; an eighth royalty, or something like that.

Q. On what?—A. On the production. For instance, if I have a well that produced eight barrels, they would get one-eighth, which is one

barrel, and I would get seven. I incur all the expenses and the land is theirs. I have a term lease for that property.

Mr. HOWES. I think Mr. Goldsborough is right about that. They discharged men and cut down the wages.

By Mr. SMITH :

Q. Mr. Howes, you testified that business is very dull?—A. Yes, sir; I know we have transferred a great many of our employes around to Ohio and down to Pittsburgh. We have not discharged but one man, and he because we closed up store entirely.

(At this point the committee adjourned subject to the call of the chairman.)

Synopsis of labor pay-rolls of Producers' Protective Association.

Location of assembly.	Amount allowed on each pay-roll.	Number to whom allowances are made.	Number out of work on account of shut-down.	Number unemployed, no reason given.	Number out of work on account of property changing hands.
Allentown, N. Y.	\$220.00	9	9		
Butler, Pa.	1,806.00	81	66	15	
Bolivar, N. Y.	501.50	28	23		
Bradford, Pa.	744.00	33	12	21	
Clarendon, Pa.	1,044.00	48	32	16	
Duke Centre, Pa.	261.00	16		16	
Dallas City, Pa.	198.00	11	7	4	
Edenburgh, Pa.	619.00	82	32		
Emlenton, Pa.	543.00	39	38	1	
Eldred, Pa.	355.00	21	21		
Foster Brook, Pa.	646.00	33	8	24	1
Kendall Creek, Pa.	380.00	30	28		2
Knapp's Creek, N. Y.	465.00	25	9	16	
Kane, Pa.	895.00	36	14	5	17
Millerstown, Pa.	1,006.00	54	54		
Petrolia, Pa.	375.00	18	18		
Rixford, Pa.	240.00	12	12		
Rew City, Pa.	505.00	23	16	7	
Saint Petersburg, Pa.	109.00	8	8		
Sewyer, Pa.	95.00	5	5		
Summit City, Pa.	233.00	13	13		
Tionesta, Pa.	561.00	26	26		
Titusville, Pa.	379.00	16	16		
Total	12,240.50	612	467	125	20

STATE OF PENNSYLVANIA,

McKean County, ss :

Before me, a notary public, in and for said county, personally came James R. Goldsborough, who, being duly sworn, says that the above is true and correct to the best of his knowledge and belief.

JAMES R. GOLDSBOROUGH.

Witness my hand and official seal, this 28th day of May, A. D. 1888.

[SEAL.]

G. H. MOON,

Notary Public.

STATE OF PENNSYLVANIA,

County of McKean, ss :

I, J. M. McElroy, prothonotary of the court of common pleas in and for said county, which is a court of record having an official seal, do certify that George H. Moon is a notary public in and for said county,

duly commissioned and sworn and authorized by law to administer oaths and take the acknowledgment of deeds and instruments for record, and his term of office commenced on the 17th day of May, A. D. 1887, and will expire on the 17th day of May, A. D. 1891; and further, that I am well acquainted with his handwriting and verily believe that the signature to the annexed instrument purporting to be his is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Smethport this 28th day of May, A. D. 1888.

[SEAL.]

J. M. McELROY,
Prothonotary.

FRIDAY, April 13, 1888.

TESTIMONY OF I. E. DEAN.

I. E. DEAN sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?—A. Toledo, Ohio.

Q. What is your business?—A. Producing oil.

Q. How long have you been engaged in that business?—A. Twenty-four years.

Q. By producing oil you mean that you are the owner of wells that are in operation?—A. Yes, sir.

Q. Where are they located?—A. In Alleghany County, Pa., McKean County, Pa., Warren County, Pa., Allen County, Ohio, Auglaize County, Ohio, Hancock County, Ohio, Sandusky County, Ohio, and Wood County, Ohio.

Q. Then a portion of your wells is located in the Ohio field, as well as a portion of them in the Pennsylvania field?—A. Yes, sir.

Q. Are you a member of the Producers' Protective Association?—A. Yes, sir.

Q. When did you become a member of that?—A. In September last, I think.

Q. At the time you became a member of it was there any agreement between the Standard Oil Company and the Producers' Association?—A. No, sir.

Q. Have you ever signed or made yourself a party to any of the agreements made by the Producers' Protective Association with the Standard Oil Company, or with its own members, or with the laborers, for the shutting in and reduction of the production of oil?—A. No, sir.

Q. Will you state, please, what the object of the Producers' Protective Association was, as you understood it, when you joined it?—A. The object of the Producers' Protective Association, as I understood it when I joined it, was for the purpose of solidifying public sentiment, so far as the producers and those interested in their welfare was concerned, in any movement that might be made to secure legislation or otherwise benefit the oil industry.

Q. Did that association contemplate at that time a contest with the Standard Oil people or trust, or was it expected that they would combine interests?—A. The Producers' Protective Association was an outgrowth of the strife in Pennsylvania to secure the passage of what was known as the Billingsley bill, and at the time I joined the Producers' Association it was supposed—at least that was my supposition and information—that it was proposed to organize the producers wherever

there were parties interested in the production of oil, so that in case any legislation should be introduced, either in Pennsylvania, New York, Ohio, or other States, or the Congress of the United States, in the interest of the producers, to at once, and without unnecessary expense, throw the whole combined interests of the oil business and those interested in it and in favor of it, with no idea of combination at that time, as I understood it.

Q. That is, combination with the Standard Oil Company?—A. Yes, sir; the combination with the Standard Oil Company was an after consideration.

Q. Now, what was the Billingsley bill of which you spoke?—A. It was a bill introduced in Pennsylvania for the purpose of reducing the pipeage, the storage, and the charges on oil, and also to compel the transportation company to deliver oil from their lines wherever the buyer of such oil should dictate; that is, if they had the facilities, of course. It may be necessary to say that it has been the practice of the transportation company to deliver oil where they saw fit, and you might build a refinery alongside of their loading station, and they would not deliver oil to you from the field where you wanted to get your oil.

Q. The pipe line companies then, as I understand it, decline to deliver oil at all except at the terminals of their lines?—A. They refuse to deliver the oil at the terminals, where you might build a refinery, for instance.

Q. These transportation lines or pipe lines were under the control of the Standard Oil Trust?—A. Yes, sir.

Q. You are not a refiner, are you?—A. No, sir.

Q. You have not shut in any of the product of your wells?—A. No, sir.

Q. You may state what that product amounts to in the different fields—that is, separating the Pennsylvania field from the Ohio field?—A. The gross production or my production?

Q. Your production?—A. Individually I have a production in the Allegheny field of twenty-two wells, probably producing about 22 barrels, about a barrel apiece. Then I am interested in a company; that is, in the Allegheny, McLean, and Warren fields, I think, seven hundred and eighty wells. I can not say exactly.

Q. Per diem?—A. Yes, sir. I can not say exactly what the production of those wells is. The same company owns in the neighborhood of forty wells in the Ohio field, and I have now three wells outside of the company in the Ohio field, that if I was running the production would be in the neighborhood of 200 or 250 barrels a day.

Q. Is there a difference between the oil from the Ohio field and the oil from the Pennsylvania field?—A. Yes, sir.

Q. In what does that difference consist?—A. The Ohio oil is strongly impregnated with sulphureted hydrogen, that gives the oil a smell which is objectionable to some people. The Pennsylvania oil has a sweeter odor.

Q. Is this sulphureted hydrogen in the Ohio oil a difficult matter to eliminate in the process of distillation?—A. It has been so considered. For twenty years they have experimented on it, and within the last three or four years they have been unable to get rid of it; but now they are able to deodorize it perfectly, so that the smell is taken out entirely.

Q. Is there any difference in the weight of the oil produced in Ohio from that produced in Pennsylvania?—A. Yes, sir; there is a difference in the weight of any oil.

Q. I mean the average?—A. Yes, sir; the Ohio oil is of heavier gravity than the Pennsylvania oil. The Pennsylvania oil runs from 25 gravity at Franklin, 40 to 44 gravity at McKean field, and 47 to 54 in the lower field; while the Ohio oil runs from 36 to 42 gravity.

Q. Is the Ohio oil what they seem to call a light oil; that is, an oil the distilled product from which can be used for illuminating purposes?—A. Yes, sir; that is what you would call a refined oil; not lubricating oil.

Q. The oil which you have mentioned as being found in the Pennsylvania field, I take it as a lubricating oil?—A. Yes, sir.

Q. About what is the heaviest crude oil that can be used by the process now known for the production of illuminating oil?—A. They can get a certain amount of illuminating oil out of any oil.

Q. I mean profitably?—A. I would not consider that oil that would show a gravity below thirty-five or twenty-five profitable illuminating oil. It would be owing to other ingredients in it that had to be eliminated.

Q. Where do you market the oil from your wells in Pennsylvania?—A. With the Standard.

Q. That is, you deliver to the pipe lines and take certificates for it?—A. I deliver it to the pipe lines and sell credit balances.

Q. What do you mean by that?—A. If you understood their system of doing business you would know that the oil that the producer produces from his well is run into the pipe line from day to day and is credited to the account of the owner of the well or the owners of the wells, and that stands and shows in the report as credit balances until certificates are issued for the same. In the meantime the producer generally sells his credit balances instead of taking certificates. Very few producers take out certificates for their production. Certificates are generally issued by the Standard Oil Company, they buying most of the credit balances.

Q. So what the producer sells actually is a credit which stands in his favor upon the pipe-line company's books?—A. Yes, sir. No certificate is issued until you have a credit for 1,000 barrels. They are not issued in less than thousand-barrel lots. The producers scarcely wait for a thousand barrels before they sell it.

Q. And selling it below a thousand barrels, do they have more than one customer, practically?—A. No, sir.

Q. In the Ohio field how is your oil marketed?—A. There it is all sold to the Standard Oil Company. They issue no certificates there.

Q. How is it gathered up at the wells?—A. In the same manner.

Q. There is a small pipe line which gathers it and takes it to the Standard?—A. The local lines put the oil into the lines at these points and we get credit for it at the Standard office.

Q. A credit entitling you to so much cash?—A. No; to so many barrels of oil, and that oil you have the privilege of selling to them at 15 cents a barrel.

Q. What is the price in Ohio?—A. Fifteen cents.

Q. What is the price in Pennsylvania?—A. Seventy-seven and something, I think it was yesterday. The certificates issued by the Standard Oil Company have become matter of speculation. They are used as collaterals in the banks, and bankers and brokers as well are interested in keeping up the price; whereas there are no speculative certificates issued in Ohio. The Standard Oil Company is the only purchaser, and there is no speculation. They fix the price to suit themselves.

Q. What is the production of the Ohio fields?—A. Between 18,000

and 20,000 barrels. If they would run all the oil it would be between 30,000 and 32,000.

Q. Is that 18,000 or 20,000 a day?—A. Yes, sir.

Q. And that all goes to the Standard Oil Company at a price fixed by them?—A. Yes, sir.

Q. What do you mean by the statement "If they would run all the oil the Ohio field would produce 32,000 barrels a day"?—A. I mean that they have refused to take care of only such a portion of the oil, and hence wells have been shut back in. Wells which if opened up would run 1,000 or 2,000 and something, or even more, would be shut in four days out of the week. When they would open an 800-barrel tank, for instance, they would open it long enough to fill it, which would take four or five hours, and then the well would be shut in again.

Q. Have you made any investigation recently to know the cost of refining the Ohio oil?—A. Yes, sir.

Q. Do you know, too, what the cost of refining the Pennsylvania oil is?—A. Not personally. I know what it is stated to be.

Q. You know what it is reputed to be?—A. Yes, sir.

Q. What is the difference in the cost of refining Pennsylvania oil and Ohio oil?—A. It costs one-third more to refine the Ohio oil than to refine the Pennsylvania oil, or about 13 cents more a barrel.

Q. I understood you to give the price of Ohio oil and Pennsylvania oil as so much per barrel?—A. Yes, sir; per barrel of 42 gallons.

Q. Do you know what use is made of the product of the Ohio field—what they do with it?—A. A good deal of it is in storage tanks built there, and the Standard are running a refinery at Lima.

Q. Using Ohio oil?—A. Yes, sir; they have a refinery there of about 3,000 barrels a day capacity, and they are mixing—that is a matter of hearsay, too, yet it comes as straight as anything can come—they are shipping from the Lima refinery to the Springfield refinery, at least a portion of it, and a portion of it is sold directly from the Lima refinery; but in both cases mixed with Pennsylvania oil.

Q. For what purpose is that done?—A. The Standard are behind other refineries so far in treating the Ohio oil. They are making a very good illuminating oil from it, but they mix the Pennsylvania oil with it to cover up a defect in the oil.

Q. What is that defect?—A. It is something in the oil that will color a chimney a rainbow color after being burned five or six hours; and if you have ever burned oil in your house you will notice that if your lamp is burned six or eight hours without changing the chimney, the chimney would be of a rainbow cast. The Ohio oil does this to a much larger extent than the Pennsylvania oil. But now, through a process known as the Detroit process, they are making of the Ohio oil a refined oil which is simply perfect. I have burned it for ten hours without its leaving the slightest discoloration.

Q. And the object of the Standard Company in mixing the refined product from the Pennsylvania field is to get an oil that will not produce this discoloration of the chimney?—A. That will not produce it to such an extent.

Q. With the ordinary use of the lamp?—A. Yes, sir; there may be a further object than that. They buy one oil for 15 cents and the other for 78 cents. Adding 20 cents for pipage would bring it to 98 cents, and 30 cents additional for freight would make it cost them \$1.28 at Cleveland. The one oil would cost them \$1.28 delivered in Cleveland while the Lima oil only costs them 15 cents, or, adding 20 cents for pipage, 35 cents at the refinery in Lima.

Q. Is it all sold at the same price?—A. The Lima oil?

Q. Yes.—A. Yes, sir.

Q. I mean the refined product.—A. Yes, sir.

Q. They sell the refined oil from the Lima product at the same price as that from the crude oil from the Pennsylvania field?—A. Yes, sir; they are making at Lima a special oil that is selling in the West, which some call the fuel oil. It is not given the same treatment as illuminating oil, and they are selling it for a less price.

Q. That oil is not refined to the same extent?—A. No, sir; it is not given the same treatment.

Q. It is used for kerosene stoves, oil stoves, and such things, I suppose?—A. Yes, sir.

Q. Your operations as an oil-well owner have not enabled you to speak from personal experience with regard to the question as to whether there are not preferences given to the Standard Company in the matter of transportation over the railroads?—A. No, sir; not recently. Four years ago I was interested in a company that built a pipe line and some tankage.

Q. Where?—A. At Warren, Pa., and we were talking some of building a pipe line and perhaps a refinery in Allegany County, N. Y., and in looking up the question of transportation we had occasion to come in contact with railroad men, but not to such an extent that we could tell what their rates were or anything of that kind.

Q. Supposing you wanted to ship your oil by rail from any of your wells to any point, do you know at what rate you could get it done?—A. Since the interstate commerce bill passed they claim to give everybody the same rates. The rate from Cygnet, Findlay, and other places, to Detroit, Mich., for instance, is 20 cents.

Q. Is that in bulk?—A. In bulk; and you furnish your own cars. I forget the rates to different points, but I have got all of them. We are making arrangements to ship our own oil now.

Q. To ship it to a refinery?—A. Yes; and for fuel purposes. We expect to use a good deal of it for fuel.

Q. Can crude oil be used for fuel?—A. Oh, yes; it is being used very largely. In the remanufacture of steel it is found that the crude oil is the most desirable fuel; for instance, in the manufacture of car-springs and everything of that description, springs of any kind.

Q. From what source do you get your tank cars?—A. We buy them of the car-makers.

Q. You have to build them?—A. Yes, sir.

Q. The railroads do not furnish them?—A. No, sir; I have been since the 12th of December trying to get a siding put in by the Pennsylvania road. I have got a contract signed at last.

Q. So that you can load your cars?—A. Yes; I have had the cars since the 5th of January, had the pipe for the pipe-line, had the tank up for loading, and all the facilities for loading at the well, but the company were a little slow in making up their minds that they would put in a siding. I finally got a contract signed by them, however.

Q. Where is that located?—A. At Gibsonburgh, Ohio.

Q. You have not with you any table of statistics, have you?—A. Of production do you mean?

Q. Yes?—A. I think I have. If I had known just what statistics you wanted I would have been very glad to have furnished you with all the figures in regard to the oil fields. Here is Mr. Dodd's argument in which he furnishes the production—shipments of oil—an amount refined from 1861 to 1887. Here is a pamphlet issued in 1884

that shows the size, location, number of barrels, and tankage connected with the National Transit Lines. It shows also the acceptances outstanding and their conditions.

Up to 1872 the Standard Oil Company had no tankage to speak of, and had no cars. The Standard Refining Company had a few cars, of course, to ship their oil to Cleveland in. The iron tankage of the country had been built by individuals entirely and by the local pipe lines organized from time to time in the producing regions, and even after 1872 until 1884 a large proportion, if not a majority, of all the tankage built in the oil country was built by individuals. One company had over 300 miles of tankage. I, individually, had about 70 miles built. I had a couple of gentlemen associated with me.

Previous to 1879, after the McKane field was discovered, they practiced upon the oil country what they call their immediate shipment. That was this, that they would not transport the oil from your well until you had sold it, and you had to sell it to them. Immediate shipment oil was worth 30 cents less than the market price of oil, that is, than of certificate oil. If you built your own tank and put it on their line they would fill your tank the same as if you had sold the oil but would not give you storage for it nor empty your tank.

This caused such an intense feeling in the oil country that what was known as a phantom party was formed, and 1,000 men, with sheets and pillow-cases around them, marched from Tarport to Bradford in the evening, without saying a word, and the supposition was that it scared the Standard Oil Company and their employes. At any rate, it resulted in a meeting being called at Olean, by which we got a tankage contract. They agreed that if an individual built tankage they would run oil into that tankage until it was full. If he sold his oil, they would give him the benefit of the storage. This led a great many of the producers, who were able, to go on and build tankage. This lasted until 1884, when they annulled that tankage contract, and since that time they have not paid us, nor given us the benefit of storage even, though we owned the tankage.

There were 5,158,471.42 barrels of tankage connected with the National Transit Line and owned by outsiders—outside the National Transit Company. In connection with that, I will say that this tankage cost the producer who built it 30 cents a barrel, while at the same time the Standard Company were building their tanks under contracts at from 23 to 25 cents a barrel. When they annulled their tankage contract with the producer, that tankage was at once reduced to junk, worth about 3½ cents a barrel, and it looks to me like a confiscation of the difference between the value of that tankage for storage purposes and the 3½ cents per barrel which they paid for the portion that was held by outsiders. I had built seventy-two tanks, and I sold my one-third interest to my partners, who were bankers, and thought they could not have any better investment than carrying their own oil, but it was not six months afterwards before the Standard Oil Company's edict was issued making that tankage useless to my partners, although they had oil in the line.

Q. So that under the arrangement as it exists now these private tanks can not be used?—A. No, sir; not for the benefit of the owners.

Q. There has been a claim that the system of carrying oil in bulk in these tank cars was an invention or instrumentality used by the Standard Oil Company for the purpose of reducing the price of oil to the consumer. Will you state, please, what you know of the history of that method of transportation?—A. There have been improvements made in the transportation of oil by car from year to year, the same as in drilling and

every other department of the oil business, and the Empire Transportation Company, which was the first transporter over the Pennsylvania Railroad, owned a great many hundred iron tank cars, before the Standard Oil Company in its present form was known; and before the Standard Refining Company the Empire Company and other individuals owned quite a great many tank cars.

The cars we are using at present will hold, some of them, 154 barrels of oil. Until the Ohio fields were discovered the largest tank cars in use only held 120 barrels, and usually not over 80 to 100, and the practice of the railroads was to charge so much a car, regardless of how much they held. As soon as the producers of Ohio began to build larger cars they made a change. The Standard Oil Company was getting the worst of it, and they set up a howl at once that injustice was worked upon them, and the system of the charges was changed from so much a car to so much per hundred-weight. The cars were weighed when filled and when empty, so as to give the Standard a fair show with other people, which of course was right.

I think that Mr. Dodd's claim that they made the improvements in transportation is seriously out of place from another fact. Pipe-line transportation is unquestionably the scientific way of transporting oil where the quantity is sufficient to guaranty it. That was seen a number of years ago by men interested in oil, and Mr. Henry Harley, who was at one time connected with transportation over the Erie road, after the death of Fisk, and he was unable to secure as favorable rates as before, organized a company among the producers in connection with the Pennsylvania Railroad Company, with which he was connected, to build pipe lines to the sea-board by way of Philadelphia. They had organized their company, and sent men to secure the right of way and secured a portion of the right of way. The Standard Oil Company made arrangements with parties to head off that line, and did head it off. They even went so far in heading it off as to attack the credit of Mr. Harley and his line, and did finally bankrupt it. It was not until 1880, four years afterwards, that there was a line finally built to the sea-board. Mr. Dodd's claim that they made the improvements in transportation is, I think, entirely out of place.

Q. What is the relative cost of conveying a barrel of oil from the oil field to the seaboard or to Cincinnati, or any other central point, by pipe line or by car?—A. You mean what are the charges?

Q. Yes; from any point where both methods can be used?—A. There is no pipe line to Cincinnati.

Q. But to the seaboard there are several, I think?—A. The charges are the same.

Q. Whether by pipe line or by car?—A. Yes, sir.

Q. For a barrel of oil?—A. Yes, sir.

Q. Mr. Dodd says that the charge when they went in was \$1.50 a barrel?—A. That is true, but the Standard Oil Company was getting 80 cents rebate whether they shipped the oil or you did. He only tells part of the story, and the men who owned oil along the Ohio River were only going deeper and deeper into bankruptcy, and they did not know what hurt them until it was brought out later on that it was a question of rebate, allowing the company to make profit which it was impossible for the owners to do.

By Mr. SMITH:

Q. You stated that pipe lines were first started by Mr. Henry Harley?—A. I stated that the first seaboard line was, Harley, in fact, was the man who built the first pipe line,

Q. In building these lines was Mr. Harley and the men associated with him obliged to condemn the right of way?—**A.** They bought the right of way.

Q. They bought the right of way?—**A.** Yes, sir.

Q. Testimony was given to this committee that the pipe lines, as they now exist, have the right of eminent domain?—**Yes, sir.**

Q. When was that procured?—**A.** By what was known as the free pipe-line bill of Pennsylvania. I forget the date of it. I think it was about 1878 or 1879. I am not certain.

Q. What do they charge you as a producer per barrel for sending the oil from your tank to their main line?—**A.** Twenty cents a barrel, regardless of whether it is transported ten rods or ten miles; and then when you come to sell it, you get 15 cents for your share.

Q. In Ohio?—**A.** Yes, sir.

Q. How is it in Pennsylvania?—**A.** You have there the privilege of selling to them or any one else. There you get the market price, whatever it is, on the floor of the exchange at the time. The Standard Oil Company pay the market price, which is now about 78 cents, I think.

Q. You spoke about some certificates that you received in Pennsylvania for your oil—your product?—**A.** Well, what do you want to know about it?

Q. When you dispose of your oil to the Standard Oil Company you get a certificate of the amount of oil; is that correct?—**A.** No; you are given a credit on their books, which is known as the credit balance. If you do not care to sell the oil you can take out the certificate when you have deposited 1,000 barrels. It is just the same as depositing money in a bank and getting a certificate of deposit for it.

Q. Are these oil certificates negotiable?—**A.** Yes, sir; they are used to borrow money on.

Q. Are they ever used as currency?—**A.** They are used as collateral.

Q. As collateral only?—**A.** Very largely.

Q. Do the merchants ever take them?—**A.** A good many merchants have taken too many of them; that is, taken chances on them. Most of them have been bankrupted through it.

Q. Can you state about what percentage the earnings of the Standard Oil Company are on these lines?—**A.** No, sir; I can not state that, from the fact that they claim that they can not state it themselves. Dodd says that it is 13 per cent.

Q. What was their stock worth in 1884?—**A.** Seventy-five per cent.

Q. What is it worth now?—**A.** I do not know. It is as high as 223. It has been watered about \$20,000,000 in the mean time, and during these four years, while their stock has increased in value so largely, the business out of which they derived all of their profits has been undergoing a process of depreciation and bankruptcy, and the oil-well property to-day will not sell for one-third, certainly not one-half, of what it would in 1884.

Q. Oil property?—**A.** No, sir; the land will not sell for one-third, certainly not one-half, what it would. Well, their stock has increased from 75 cents—about \$60,000,000—to 220 cents which would be about \$180,000,000, and the value of their stock does not represent the dividends they paid or the salaries; while the producers have been working without salary mostly and without much grub in the house.

By Mr. BUCHANAN:

Q. You spoke of belonging to the Producers' Protective Association. Now, the officers of that association have been before this committee,

and have produced papers showing the method of operation and books showing the amount of production that each member of the association was limited to; and the statement was further made by the secretary that when any member exceeded that amount he was notified of such excess and warned that it must not be repeated. I understand you to say that you have not shut in because of your connection with the association. Do I understand you correctly?—A. Yes, sir.

The CHAIRMAN. Perhaps I can explain that to you, Mr. Buchanan. The statement of the officers was that the amount of production was regulated by the contracts which were signed, and it was not necessarily required of the members of the association that they should sign the contracts, nor were all the signers required to be members of the association.

The WITNESS. No; all the members need not necessarily sign that contract.

Q. That, then, explains why you have not been connected with the shut-in?—A. I have always been opposed to the shut-in.

Q. You were simply a member of the association, but not in the inner sanctum?—A. I never made a contract with the Standard Oil Company or any other company for cornering the market of a commodity or for artificially regulating the price. I do not believe in it. I am opposed to strikes, in other words, in any form, shape, or manner, whether by men working by the day or by the Standard Oil Company.

Q. How is the oil that you produce in Pennsylvania shipped?—A. Principally now by pipe lines.

Q. Owned by whom?—A. By the Standard Oil Company.

Q. Have you any other means of transportation?—A. No; except by the Tide Water Line, which has a running arrangement with the Standard. The Standard owns the majority of the stock.

Q. In short, are the transportation facilities in the field in which you operate entirely under the control of the Standard Oil Company and its allies?—A. Yes, sir.

Q. Are you compelled to pay the rates for transportation which they demand or go without transportation?—A. Or not ship; yes, sir.

Q. What remedy have you to suggest in the way of legislation for that state of things, if any?—A. If I were to recommend, I should favor simply the passage of a bill by Congress putting the transportation and storage companies into the position of bonded warehouses, similar to the whisky bonded warehouses, thereby making it a Government department, and the Government certifying to each certificate and delivering every barrel of oil.

Q. Have you thought of the advisability of bringing the pipe lines under the operation of the interstate commerce act?—A. No, sir; I have not given it any attention. I am willing to do business in competition with the Standard Oil Company, or any other company or individual, and I can do business cheaper because I am in the field, and, if I do say it myself, I am practical in the business, know nothing else, and if I have the same chance and same opportunity I can compete with any of them. But when there is a possibility for the Standard Oil Company to produce paper oil, or to produce more oil with the printing press in a few hours than the producers can with years of labor, I can not, of course, compete with them.

Q. What do you mean by paper oil?—A. I mean that there have been occurrences where the transportation company has issued certificates for more oil than there was in the pipe lines, and by that means have broken the oil market.

Q. You mean they issued certificates for which no oil was in existence?—A. Or at least in their custody.

Q. I mean in their custody.—A. But if it can be fixed so that there will be no possibility of an occurrence of that kind, I am willing to do business in competition with the Standard or any other combination. If you go back to the market in 1884 at the time of the Grant and Ward failure, you will discover that the whisky market did not break more than a few points, but oil went from 102 to nothing—nominally 50, but practically nothing. How do you account for that?

Q. I have long ago ceased trying to account for operations in Wall street. To return to the subject, what difficulties, if any, exist in the way of the producers of oil in the Pennsylvania oil-producing region combining to construct their own pipe line to the seaboard?—A. I guess that could be better answered by an illustration.

Q. Answer it in your own way. I am merely seeking for information.—A. If you had a sponge filled with blood and put that sponge under a pressure of about 10,000 pounds to the square inch, and kept that up for a considerable time, that sponge would be a poor place to look for blood; and the Pennsylvania producers are now poor men to look to for money to build a pipe line requiring an expenditure of many million dollars.

Q. The only reason, then, would be the want of capital?—A. Yes, sir.

Q. Is there any other difficulty, in case that one could be surmounted?—A. No, sir; I do not know that there is, unless there would be the question of harmony. They made so many efforts to harmonize the different interests, which have all been merely flashes in the pan, that they have become somewhat discouraged.

Q. Has it been the policy of the Standard Oil Company to restrict or head off enterprises of that character?—A. Yes, sir.

Q. What has been their method?—A. They generally give the promoters of a scheme of that kind notice that if they go into it they will not make a dollar. Then if they know who the financial backers are they generally convince them that that is a fact; and that generally winds up the scheme.

Q. What means of transportation have you to market from the Ohio field?—A. No means now except by the Standard. There are three different concerns there—Sherman & Collins at Oygnet, the Syndicate Fuel Company at Findley, and the Eagle Refining Company at Lima, Ohio—that are marketing their own oil. I may say four, for Shumer, Teagle & Co. are doing so.

Q. What is there to prevent your shipping your oil from the Ohio field to market? You say you are compelled to sell to the Standard.—A. There is nothing to prevent now, as fast as we can get cars, with the same exception of want of funds that prevents Pennsylvania producers from building pipe lines, etc. We are now making arrangements in the Ohio fields, or at least hope to do so, by which we will build three large refineries outside of the Standard, to be built by the producers in connection with certain capitalists.

Q. Are there railroads from the Ohio fields to market?—A. Plenty of them.

Q. And you have cars. What is there to prevent you shipping your oil over those railroads?—A. Nothing, after you get the cars.

Q. After you ship it do you find the market controlled or not by the Standard Oil Company?—A. There you come into the same competition that you find everywhere. Of course they are out selling their oil, and most manufacturers prefer making contracts with the Standard,

knowing their responsibility and the large stock they carry, to making one with an individual or an outside company, not knowing whether they will be able to fill the contract a year hence. The Syndicate Fuel Company, of Findlay, have contracted for 2,400 barrels a day; Sherman, Collins & Co., 1,500 barrels a day, and Apple, of the Eagle Company, 1,000 barrels. Those are the three concerns I mentioned that started out with comparatively small capital, but are working their way to the front.

Q. I was seeking to ascertain the reason for the state of things which led you to say that you are compelled to sell your Ohio oil to the Standard Oil Company, and ask of you now if there is any other reason than those you have named?—A. You understand the situation; you go out and get—

Q. Excuse me; I am asking you for information and would like to have your answers concise and to the point.—A. I will try to do so. You ask me for further reasons, as I understand. You may have a 20-acre lease at Cincinnati, another 20-acre at Gibsonburgh, 100-acre lease at Cygnet, 50-acre lease at Waterville, another 50-acre lease at North Baltimore. Those different leases you may have are scattered over 150 miles of territory, no two of them within 10 miles of each other. Now, you can not build a loading rack in every place where you have a 20-acre lease; it would require too much capital; hence you have to depend upon such transportation as you find where your lease is, which compels you to run the oil by the Standard, because their lines run everywhere. They make it their business. Those companies I spoke of that have marketed their own oil have taken up large blocks of land, and thus have been enabled to build a switch and make arrangements for marketing their own oil; but the producers go wherever there is development. For instance, we have 2,000 acres at Gibsonburgh, and we propose to market our own oil from there. We ordered our own cars and rack and switch on the 12th of December, but we have not got the switch yet, although a contract has at last been signed. Now, those are serious delays. The producer can not wait so long. His notes come due and have to be paid.

Q. I was asking more particularly as to the difficulties, if any, put in your way by the transportation lines, with a view of ascertaining the desirability of applying some remedy by way of legislation. Can you give any additional difficulty laid in your way by the transportation companies, leaving aside those which arise from the want of capital on the part of the producer and things of that character?—A. Supposing, for instance, at Cygnet, I put in a loading rack and shipped my own oil, I would find at once that the transportation line would leave the rest of my oil in other parts of the field, and would not run it.

Q. Would refuse to receive it?—A. Yes, sir.

Q. Would the railroads refuse to transport your cars?—A. No, sir.

Q. Can the pipe lines refuse to take oil?—A. Yes, sir.

Q. Then, if the pipe lines were called common carriers, and subject to the law as such, would not that afford some relief?—A. Well, yes, I think it would afford some relief, but I do not think it would afford relief so far as the price is concerned. It might afford relief so far as getting oil into the pipe lines is concerned.

By Mr. WILSON:

Q. Are these pipe-line companies organized by a special act of the legislature, or under the general law?—A. The National Transit Company was organized by a special act of the legislature of Pennsylvania. They have a remarkable charter; I am sorry I have not a copy of it with me.

Q. Is there a general law either in Pennsylvania or Ohio under which such companies can organize?—A. Yes, sir.

Q. So there is no difficulty in the way of procuring legislation in either State, and organizing a company and constructing a pipe line?—A. Not at all.

Q. The general law gives them the right of condemnation of property?—A. Yes, sir.

Q. The only difficulty, then, is that this monster concern can, by its intimidation, or actual discrimination, crush out any small link because of its having so extensive a system itself?—A. Yes, sir.

Q. All the gambling done in oil by speculation is on these certificates of the Standard Oil Company?—A. Yes, sir; they are the only certificates known to speculation. The Tide-Water Company has certificates out, but they are not known to brokers for speculative purposes at all?

Q. That is an ally of the Standard?—A. Yes, sir.

By Mr. BRECKINRIDE:

Q. I would be glad, Mr. Dean, if you would describe what a pipe line is and how it is operated.—A. The pipe line is the means by which the oil is gathered in at the wells and transported from place to place. They usually use a 2-inch pipe from the wells. For instance, you drill a well. You tube your well, and it flows or pumps into a tank varying from two hundred and fifty to six or eight or twelve hundred barrels, according to the capacity of the well. That tank is gauged so as to ascertain the number of barrels it holds and the number of barrels each quarter-inch holds from bottom to top. The pipe-line company then connects a 2-inch pipe to your tank, and when a tank is full and ready to run they gauge it and find the number of barrels of oil in the tank, and then they run it out into their line or storage capacity through these tubes, and when they have completed running it out they regauge the tank and find out how many barrels of oil remain, and deduct the number run out from the number remaining, which shows the number of barrels run out, and that, less the royalty to be paid the owner of the land, is credited to you on their books. These pipe lines extend from the wells to their general field tanks. They build large iron tanks holding from 20,000 to 30,000 barrels in different parts of the field, in which they store oil temporarily. From these they have a pipe line 6 inches in diameter extending to the different cities. There are two to New York, one to Baltimore, one to Pittsburgh, one to Cleveland, and one to Buffalo. Through these larger lines they pump this product with immense pumps to New York, Philadelphia, Baltimore, etc.

Q. Where are these pumps located?—A. The first one is at their gathering station in the field, and they are located, generally, every 30 or 40 miles along the line. Sometimes there are 60 miles between the starting point and the next point. They run with about 1,000 pounds pressure to the square inch and they put the pumping stations in such positions as to work to the best advantage. There is no question but the company has systematized everything thoroughly. They have made great improvements; but when Mr. Dodd says they have made all the improvements he is giving too much credit to them.

Q. Are these pipes under ground?—A. The main oil pipes are but not the field pipes. They are compelled to bury them in the Ohio field from the fact that our Ohio territory is in the midst of a rich agricultural country, and hence in making our leases we are compelled to agree to bury all pipes.

Q. How deep are pipes generally buried?—A. So that the plow will miss them, and so that they will not interfere with drainage; 12 to 18 inches.

Q. Will coal oil freeze?—A. Crude oil?

Q. Yes.—A. There is a difference between oils as to their cold test. Some oils will stand more than others. But that is not an indication of poor oil. For instance, the fourth-sand oil, which is the best oil for refining purposes, will not stand a great amount of cold.

Q. What is the effect of cold on oil?—A. It chills it makes it stiff.

Q. You have spoken of the difficulties; what is your idea of the remedies? What do you think ought to be done, or can be done, to prevent the pressure we hear of by these combinations?—A. Every man, almost, has a different hobby and a different theory.

Q. Well, we are gathering them all up; let us have yours.—A. I have a different theory from almost any man in the oil country. I believe, and I do not want you to think I am a free-trader, in the utmost freedom of trade and commerce.

Q. You are speaking of coal oil?—A. I am speaking of coal oil. I believe if there was a positive assurance that there was no danger of overissuing certificates, or overdrawing the accounts, or issuing oil that they have not bought and paid for, or any other advantages of that kind which was gained by their being members of the Standard Oil Company, that an outside refiner can do business and successfully compete with them. Now, to show what I mean. Here is a statement showing the location of their tankage. Here you will see that every barrel of tankage they have at Philadelphia, New York, and other points, in connection with their large refinery interests there, in case of a fire the producer pays for it—the crude oil—and their tankage is kept short. Now you see all those tanks [indicating them] are at Pittsburgh refineries. Here is Saddle River, N. J., and the Great Pennsylvania, Milton, Pa., Sandy Hook, N. J., and Bayonne, N. J. All that tankage capacity around those refineries may be filled with oil, and in case of a fire goes into the general average and is paid by an assessment plan; while if you or I own a refinery alongside of them at Bayonne and put in sixty or a hundred or two hundred thousand barrels of tankage at our own expense, and had bought the oil of them to fill it with, when it is delivered to you the certificate is canceled and the oil becomes your property, and if it burns up you are the loser. It can not go into general average.

Q. But if oil is consumed while it is in their custody it goes into general average and no certificate is impaired in value by that?—A. No, sir; each certificate is assessed according to the percentage of losses in kinds.

Q. The oil is one element?—A. Yes, sir.

Q. Now as to your remedies. You spoke of preventing the overissue of certificates?—A. Yes, sir.

Q. That is all you mean to cover?—A. Yes, sir; that and the overdrawing of account. For instance, say it was practicable for you and I to control the capital to buy every certificate in existence to-day and put men in the field and buy the whole oil; that is, oil direct from the producer—every barrel of oil that is produced (they have 70,000 or 75,000 barrels of refining capacity to-day)—and I do not believe there is a man acquainted with the business that believes that one single refinery of theirs would shut down for want of oil. They are merely an oil bank. They do not agree to deliver and do not attempt to deliver the same identical oil that you deliver to them. But they agree to deliver a like amount on demand, the same as a bank, and if you go to them and say,

"Here, you are refining my oil," they will say, "I will deliver your oil whenever you want it;" and if you wanted to corner them you might buy all the certificates in existence and buy all the oil, and you would have to have 30,000,000 or 40,000,000 barrels of tankage to run your own oil into before you know whether they were short of oil or not.

Q. Have you any other remedy that you think would be fair?—A. No, sir. I do not believe in legislation fixing prices, neither for transportation nor for the product itself. I believe in an even chance, and the devil take the hindmost in the race.

Mr. BUCHANAN. Is not that what you are complaining of, that the devil is getting the hindmost?

The WITNESS. The devil is getting the hindmost; no doubt about that; but it is not an even chance.

Mr. MCKINNEY. Nor an even start.

The WITNESS. No, sir; nor an even show.

By Mr. BRECKINRIDGE:

Q. The Standard Oil Company controls all the pipe lines, does it not?—A. Yes, sir.

By Mr. MCKINNEY:

Q. I understand you to state that this combination known as the Standard Oil Trust has had a tendency to reduce or to impoverish the individual oil producers?—A. Yes, sir.

Q. There are a great many men employed in this business, are there not?—A. Yes, sir; directly and indirectly connected with the oil business and dependent upon it, probably in the neighborhood of 80,000 or 100,000 people.

Q. What effect has this combination had upon the wages of these 80,000 or 100,000 men, if any?—A. You mean since 1884, or since the combination made last November?

Q. Either. I am asking questions for general information. What effect has it had in the past and what effect is it having now? Explain to suit yourself.—A. Before the organization of the Standard Oil Company probably one-half of the men engaged in the oil business were refining or hunting a market for refined products, and the other half were drilling and operating wells. Hence our production was not as large as it has been since the Standard squeezed out and bought out and took the refining and transportation business entirely to themselves, and turned all those other men that were connected with the business prior to that into the producing business—made them all producers. That is the only thing they have been allowed to do. They went on in a wild way hunting new oil, and when they found it they would develop it rapidly until in one year we averaged nearly 100,000 barrels of oil a day. The last two years, up to last November, we have had over 7,000,000 barrels reduction on the stock. During that two years we have had the lowest price for crude oil that we have ever had in the business during that length of time.

Q. Are the wages of the help reduced?—A. Yes, sir; I met a man the other day in Lima that worked for me twenty-four years ago. I paid him \$6 a day then and expenses. He had only worked on one well, so he was not much of an expert. He has been continuously at the business since then and is working now for \$40 a month. That is true of every department of the oil business so far as the wages of workmen are concerned. Drillers' wages now are about \$3 a day; twenty-four years ago they would demand \$6 a day and expenses. Now they have to pay their own expenses and lay still a great while.

Q. What effect has it had on the general business of the country outside of the oil business?—A. I can say this, before 1872 I could within my own acquaintance name twenty men, I presume, that could draw their checks almost any time for \$100,000. I could name fifty men who draw their checks for \$50,000. I could name two hundred men that could draw their checks for \$10,000. To-day there is only one man in the oil business, after fifteen years' experience with those fellows—and most of the very men I spoke of before are still in it—that could draw his check for \$50,000, or even \$25,000. Their wealth has gradually been depleted, until they have, like all the rest of us, used their credit most of the time, until they find it is a case of economy and struggle to get a living out of the industry.

Q. Then you make this assertion, do you: That this combination has destroyed the wealth of many men in that community?—A. Yes, sir.

Q. And that it has reduced the wages of those employed materially?—A. Yes, sir.

Q. Has that been more so since this last combination than previously?—A. Since last November. When this combination was made the market was down to 62½ cents, and the object of this combination, so far as the producers' end of it is concerned, was to put prices up, and they were in the hopes of putting the prices up to \$1.50. The object of that combination was to limit the production and by that means enhance the price, which would be a benefit to the oil country. They put the price up to 98 cents. It was for a second \$1, but it did not stay there long enough so that any one could hit it very hard, and got back to 75, and along there. Since this has been advanced the oil country has been encouraged and business is very lively. They have not got any benefits only in their minds.

Q. Do you believe that if any legislation could be passed by which this combination could be broken, and that all men in the business would have an equal chance, that it would be a benefit not only to the business of those communities but also to the laborer?—A. Yes; yet at the same time I believe in combined capital; I believe in combined effort, but I do not believe in monopoly.

Q. That is what I mean?—A. That is, I do not believe in any combination being made for the purpose of reducing production and by that means enhancing value. I do not believe a combination should be made for the purpose of monopolizing any industry and arbitrarily fixing prices. I believe in combined capital instead of combined credit. If I had my way I would not allow a railroad to issue a dollar of indebtedness except its stock. I would make them sell their stock out for cash, and until that they could not build their roads. They might need more money, but we would have less suffering.

By Mr. BUCHANAN:

Q. Do you know of any way by which an additional amount of money would flow into the oil regions, except as the result either of an increase in the price of the selling of oil or a decrease in the price of charges in oil from the producer to the consumer?—A. No, sir.

By Mr. BRECKINRIDGE:

Q. Would not this influence it; that whatever might be the price of oil, would it not be important that the charges for transportation should be uniform, free from any discrimination between shippers?—A. Yes; that we have now.

Q. You have that now?—A. Yes, sir; so far as these pipe lines are concerned. Their price is 20 cents in the field.

Q. And no drawbacks to favorites?—**A.** No, sir; there is no discrimination in that rate.

Q. That was, however, the principal reason of trouble heretofore?—**A.** No, sir; there has never been any charge of anything of the kind in the oil country. There was with the railroads, but not with the pipe lines. You could not ship—or I could not ship a barrel of oil over the railroad without we paid their regular advertised rate. While the railroad made a reduction, the Standard got a rebate on every barrel of oil that I shipped.

Q. That broke you up?—**A.** Yes, sir; after we ran through the sheriff's hands we learned some things.

Q. The rates now by the pipe lines are absolutely uniform?—**A.** Yes, sir.

By Mr. BUCHANAN:

Q. Do you know of the existence of the rebates on the roads now?—**A.** No, sir; I do not.

Q. The interstate commerce act or something else has stopped that?—**A.** I think the interstate commerce act has had a good effect, especially on the oil business.

By Mr. BRECKINRIDGE:

Q. Have the charges by the pipe line been uniform all the time?—**A.** Yes, sir; there has never been a charge even of discrimination so far as the local pipe line is concerned.

Q. They did not discriminate in favor of one locality as against another locality?—**A.** No, sir; not so far as locality is concerned. The way they do that is this: If they find inferior oil in one place they make that the certificate oil, and pay a premium for a better oil. There is a difference in the grades of oil. For instance, McKean and Allegheny oil is not considered as fine for marketable purposes as the Pebble Rock oil. For instance, they pay 8 cents premium on the Pebble Rock oil; but the McKean and Allegheny fields is certificate oil.

By Mr. SMITH:

Q. Do you think those charges per barrel are exorbitant?—**A.** Yes, sir; no question about it; 7 cents a barrel is better business for piping oil than \$1 is for the producing of it.

The CHAIRMAN. There being no other questions to be put to the witness, he is discharged; and as there is no other business now before the committee this morning, it is adjourned.

WASHINGTON, D. C., April 23, 1888.

The committee met at 11 o'clock a. m. Present: The chairman, Mr. Smith; Mr. McKinney, Mr. Buchanan, Mr. Grimes, Mr. Crouse, and Mr. Bunnell.

The CHAIRMAN. Mr. Scott, you stated that you desired to say something to the committee when it was in session. It is now in session, and you may proceed.

Mr. JOHN SCOTT. Mr. Chairman, the subpoenas with the clause requiring the production of a very large number of books, documents, and papers were served upon some gentlemen who are officers of the Pennsylvania Railroad Company on Wednesday or Thursday of last week, requiring the presence of all of them here to-day at 12 o'clock. I

think there were ten of them, embracing the second vice-president, who is in charge of our transportation business, the general traffic manager, secretary, treasurer, and some five or six others. I was apprised on Saturday evening that Mr. Thompson, the second vice president, had information that, owing to the statement which he had made as to illness in his family, he would not be required to be here at the time; but I had no understanding that that exemption from obeying the subpoena extended to the other officers of the company, and that they might not seem to be in disregard of their subpoena, having to come to Washington on business before the Interstate Commerce Commission, I come before you to make a brief statement as to the position in which the service of that subpoena would place our officers if it is to be literally obeyed. I may say here that I disavow, representing that company, any desire to obstruct any legitimate investigation which may give to Congress or its committees any information that may be necessary to enable them to legislate upon any question of public interest. We are not obstructionists in that direction. We want to give such information as will lead up to proper legislation, and we shall obey when it is enacted. But this subpoena is to me somewhat wonderful in its extent.

The CHAIRMAN. Have you it with you?

Mr. SCOTT. I have a copy that was served on some of the officers. They are not named as officers in the subpoena, but the clause *duces tecum*, as it is technically determined, is in it. Of course they were subpoenaed for the purpose of bringing books here as officers of the Pennsylvania Railroad Company. I shall have occasion to refer to one or two clauses, and with your indulgence will speak with reference to them.

The CHAIRMAN. I made that inquiry because the form of the *duces tecum* clause is not known to any member of the committee.

Mr. SCOTT. I am glad to hear that.

The CHAIRMAN. I wish you to understand that in advance of anything you might say about it, because it will be necessary, in order that your remarks may be appreciated or understood by the committee, that they should know just what is in that clause.

Mr. SCOTT. I say I am glad to hear that statement, but I hardly supposed it was possible that this committee could, without a full understanding of the extent of this, be made the instrument for preparing in a Congressional committee material for private lawsuits.

The CHAIRMAN. Do not understand me as criticising it at all.

Mr. SCOTT. Then I infer from your present statement that the members of the committee are ignorant of what is in this clause of *duces tecum*.

The CHAIRMAN. I desire to make plain to you just what the fact is. There is no secret about it. These subpoenas have not been prepared by the committee in session, nor are the contents of them understood by or known in any manner to the majority of the members of the committee. My remark was addressed for the purpose of informing you of that fact, that you might not proceed with your discussion of it without informing the members of the committee what it was exactly that the subpoena contained.

Mr. SCOTT. As a preface, then, coming down to what that subpoena does contain, I may say that after this subpoena was sent I read with considerable interest the debate which resulted in the resolution under which you are now sitting, and I saw that whatever might be the general scope of that resolution some of the members who participated in the debate were solicitous that two subjects should not escape investi-

gation; one was the Standard Oil Company, the other was the anthracite combination. Seeing my friend Mr. Gowen here, I naturally supposed he was here subpoenaed as a witness for the anthracite combination. I did not know how soon they were going to take that up, he having been the president and receiver of the Reading Railroad Company while that combination existed, I believe. However that may be, I do not know whether you intend to direct your investigation specifically to the anthracite combination or the Standard Oil Company first, or to any of the general subjects that are embraced in them.

I come now to the subpoena, because it is specific in its purpose which is set out. It wants the documents, contracts, etc., made between the Pennsylvania Railroad Company and the South Improvement Company, dated January 18, 1872. That is specific enough, if there is such an agreement.

Then follows quite a number of contracts between the Pennsylvania Railroad Company and the producers of petroleum, represented by Benjamin B. Campbell and others, for the transportation of petroleum made in the year 1879 or 1880.

Then all contracts between the Pennsylvania Railroad Company and the Empire Transportation Company, especially the following (then follows the list "A, B, C," and so on, as follows):

A. The contract under which the Empire Line commenced business in the lines of the Pennsylvania Railroad Company.

B. The contract under which the property of the Empire Transportation Company was acquired by the Pennsylvania Railroad Company.

C. The contract or contracts under which the Empire Transportation Company transported oil on the lines of the Pennsylvania Railroad Company, and the contract or contracts under which the said Empire Transportation Company relinquished the transportation of oil on the lines of the Pennsylvania Railroad Company.

Then, and very generally—

IV. All contracts or agreements made between the Pennsylvania Railroad Company, or any department or officer or agent thereof, and any person, persons, firm, partnership association, trust, or corporation for the transportation of petroleum or the products of petroleum over the lines of the Pennsylvania Railroad Company, or any portion thereof—

So that you will see this is not intended to be confined to interstate investigation, but it would require every contract with reference to transportation of petroleum between all points in Pennsylvania—

or over any lines of railroad leased or operated by the Pennsylvania Railroad Company from the year 1870 to the year 1888, both inclusive.

A period of eighteen years.

V. All books, vouchers, receipts, bills, statements, or accounts relating to or showing any and all rebates, allowances, drawbacks, car service, or other payment whatever made, allowed, or credited by the Pennsylvania Railroad Company, or any department, officer, or agent thereof, for, on account of, or in respect of any and every shipment of crude or refined petroleum, or any of the products thereof, over the Pennsylvania Railroad, or any part thereof, or over any line or lines leased or operated by the Pennsylvania Railroad from the year 1870 to the present date inclusive.

VI. All books, statements, manifests, and accounts of the Pennsylvania Railroad Company, or any department thereof, showing any shipments of crude or refined oil over the lines operated by the said company, or any part thereof, during the years 1881, 1882, 1883, 1884, 1885, 1886, and 1887, showing in case of each shipment the name or names of the consignor and consignee, the point of origin and destination, the character of cargo, the actual weight or quantity of cargo, and the actual weight or quantity upon which freight was charged, the gross amount and rate of freight charge, the amount and rate of drawback, rebate, allowance, car service allowed or paid, the net amount of freight charge received less the drawbacks, allowances, rebates, or car service, and the distance in miles over which each shipment was transported.

VII. All letters and telegrams received by the Pennsylvania Railroad Company, or any department or officer thereof, with copies of all replies thereto, relating to claims for drawbacks, allowances, rebates, or car service upon or on account of all or any shipments of crude or refined petroleum, or any of its products thereof, from the year 1881 to 1888, both inclusive.

I would not have read the whole of this had it not been your request, Mr. Chairman, that I should do so for the information of the committee. Two things are apparent upon the face of it.

First. It is not a broad, general inquiry as to what the profit of the railroad company has been with reference to the shipment of petroleum and the rates charged; but it is a specific inquiry asking for the shipments, the dates, the names of the consignors and consignees, and the rates charged, and all that. That is the reason why I say, gentlemen, that as a lawyer when I read this it struck me that it was prepared by some gentleman who was endeavoring, through your committee, to prepare his private lawsuit for trial in court; and the reason I thought so is, that we have in Pennsylvania a statute dating back, my recollection is, to 1883, which gives to all shippers a remedy for rebates, payment of rebates, or for discriminations made against them, and those who consider themselves aggrieved under that statute have to-day pending against a railroad company lawsuits, and they are now in process of preparation for trial. This testimony, if it exists and they can get it through this channel, would be entirely appropriate in a private lawsuit. What advantage it will be for a committee of Congress to know whether a thousand barrels of oil went from Bradford to Pittsburgh to John Jones or Peter Smith, I am at a loss to see. The general practice certainly is all you want to inquire for, and why your committee should be asked to require the officers of the company to go over their accounts from 1870 to 1888—eighteen years—bring here all the manifests, all the correspondence, all the accounts, and all these books, I think, gentlemen, you will say to yourselves that it is somewhat mysterious to you, if you have not heretofore been informed of the contents of this subpoena *duces tecum* served upon ten officers of the Pennsylvania Railroad Company.

But in addition to that, gentlemen, I have this to say: The very evils that are complained of here, so far as they affect the interstate commerce, were the evils which were under discussion in your House and in the Senate for many years, and have resulted in the passage of a law to remedy these evils.

We are now being called from time to time before the Interstate Commerce Commission, a tribunal erected by Congress for the very purpose of remedying these evils. I am here to-day, and intend to go to-morrow before the Commission to answer a complaint made at Baltimore with reference to this very transportation of oil, and it does strike me, gentlemen, that however it may be your spirit to determine, Congress having acted upon the information obtained through long investigation and inquiry, having erected a tribunal for the very purpose of correcting these evils before which persons injured may go, and before which they are going daily—now is it the province of your committee that you shall go back to the year 1870 and require an investigation and search over this old straw which has been gone over by legislative committees in Pennsylvania and in Congress, for the purpose of enabling anybody to prepare a private lawsuit?

Mr. BUCHANAN. Let me ask you whether these suits you speak of are suits arising or based upon the causes of action which have been arising since the date of the taking effect of the interstate commerce law?

Mr. SCOTT. The suits to which I refer and which I have specially in mind relate back beyond the passage of the interstate commerce law, some of them, and embrace, according to my recollection, also charges made since the interstate commerce act. They are now in the State court; those suits are pending in the State courts of Pennsylvania.

The CHAIRMAN. Pending under some statute, not of the United States, but of your State?

Mr. SCOTT. Of my State.

The CHAIRMAN. These actions are pending under that statute?

Mr. SCOTT. Yes, sir. The other complaints that have been made before the Interstate Commerce Commission, of course I need not say to this committee, are with reference to interstate commerce, and not with reference to shipments.

Now, as I have already stated, our ten officers were subpoenaed all to be here to-day at 12 o'clock. I supposed anybody who prepared that subpoena, if he had given thought for a moment, would have come to the conclusion that it was hardly necessary that the same clause of *duces tecum* should be served on ten officers, the duties of whom are so distinct as those of the treasurer or the general traffic manager of the company; and I hardly supposed your committee expected the attendance of them all here this morning, even had there been any arrangement as to one of them. But I present to you this broad, general, question. I take it that there is no expectation that you will act here upon anything but interstate commerce. I do not know of any clause of the constitution that has conferred any other jurisdiction. Congress, as I have said, has already acted and conferred upon a tribunal jurisdiction over all questions of that character. It does strike me that it ought not to be asked of a corporation whose business is as extensive as that of the Pennsylvania Railroad Company that it shall detail its officers for the work of at least a week to look up documents, correspondence, telegrams, and accounts and bring them down here—as one of the officers said to me—in half a train, for it would take that pretty nearly to convey here all that enormous business of the Pennsylvania Railroad Company from 1870 to 1888, at least so much of it as has been left from the pulp mills, for we have not room enough in the building at Fourth street or anywhere else to keep these documents beyond a certain period of time.

Now, what your committee may determine to do, whether you will still insist that some of these witnesses may come and when they shall come, of course it is not for me to suggest. It will be for you to determine, in the light of the information which you now have, to what extent it is proposed to bring the officers here. If it is proposed to follow the other branch of the contention, and to insist on bringing our papers here from 1870 to 1888, from my experience of investigations I wish the committee all the joy they will have on hand.

But I come now to present it to you in that light, and we shall await in the future your determination as to whether you propose to bring these witnesses here for oral examination, or for the production of documents, and shall then be governed by our sense of duty to the public and to ourselves in the position in which we shall then find ourselves.

The CHAIRMAN. Now, as you are here as the representative of the Pennsylvania Railroad Company, I desire to know from you whether the understanding which I had with Mr. Scott, of Pennsylvania, Representative in Congress, will be acquiesced in and lived up to. Mr. Scott came here Saturday afternoon to say to me that the officers of the Pennsylvania Railroad Company were subpoenaed to appear here at 12 o'clock

to-day, and to bring with them a large amount of documentary proof. He wanted to know whether that date would be insisted upon. I told him that it would not be, upon the understanding that they would come without the service of a subpoena at some date to be fixed by me hereafter or by the committee, and of which they should be notified by telegram; of course, reserving to them at all times any legal rights they had under this subpoena, but not requiring us to serve a second subpoena upon them.

Mr. SCOTT. Is that the full inquiry you wish to make?

The CHAIRMAN. Yes, sir.

Mr. SCOTT. I do not wish to be misunderstood upon the question at all. I shall be as frank in my answer as you have been in your inquiry.

You refer, I presume, to Mr. William L. Scott. The family has become quite numerous. It is well to keep on the record about whom you are talking.

William L. Scott, as I understand, was telegraphed to or written to by Mr. Frank Thompson, the second vice-president, because of the illness of his son. His son is very ill, and is hardly expected to live a day or two, and it was impossible for him to leave him. All I know is contained in a dispatch which was sent by Mr. Scott to Mr. Thompson, and which was sent to me on Saturday evening, saying that his attendance was dispensed with. That came to me from Mr. Thompson. It was the language of the dispatch simply:

Chairman out of town. I have an understanding, however, that you need not appear Monday, and when you are wanted you will have time to respond.

The CHAIRMAN. I do not want any misunderstanding about it.

Mr. SCOTT. I am going on to state it. That was sent to me, and the impression made upon my mind when that note came to me was that I should come to Washington anyhow, notwithstanding his excuse. I did so for the reason that I understood the excuse extended only to him and not to anybody else. Had I understood it extended to everybody I should not have hurried here to-day, but would have come to-morrow before the Interstate Commerce Commission.

I will say here now that we will not require the duplicate service of the same subpoena, if that is what you refer to, on those gentlemen. That subpoena, whatever postponement you see proper to make as to their appearance, shall be considered as having been left with them, the notice not requiring the renewal of those copies upon them. Of course, the production of the papers or their giving testimony here must, of course, be reserved for instruction when they shall appear before you. I do not wish to put the committee to the trouble of re-serving their subpoena, if they insist upon the presence of these witnesses now.

The CHAIRMAN. For my part I do not ask for anything that will predetermine what your response to this subpoena will be. But I want it to be understood that they shall be treated as if they were here to-day, and assenting to the adjournment. Then, if there is to be any questions as to whether they are to be here to-day, we will call them and have their absence noted.

Mr. SCOTT. I am here for them, to say that it is impossible for them to be here to-day. We will not require the service of your subpoena again. So far as the efficacy of the service of that subpoena goes, it may be considered as made for such time as you may postpone the hearing to.

Mr. GOWAN. Mr. Chairman and gentlemen, some three weeks ago I was written to by the chairman of this committee to know whether I

would act as counsel for this committee in conducting an investigation under the authority of the resolution upon the subject of trusts, combinations, and confederations.

Mr. SCOTT. Excuse me, but I did not hear the first of your remarks.

Mr. GOWAN. Some three weeks ago I was written to, as a lawyer, by the chairman of this committee to know whether I could be employed by the committee as its counsel to investigate under their resolution the question of trusts and combinations, and particularly with reference to the Standard Oil Trust. I replied that if the committee would agree to make an investigation into whether, and to what extent, unjust railway discrimination in freight charges has enabled the Standard Oil Company to obtain and maintain its monopoly, I would cheerfully lend them my assistance, provided the term of my service was limited to two or three weeks, in which I could devote my time to it, having other engagements.

The chairman wrote a reply, stating that he had read my letter before the committee, and that they had unanimously agreed upon such an examination. I then had an interview with the chairman, and wrote him fully the facts which I proposed, as their counsel, to bring out, and asked him if he had any objections to it or desired to make any suggestions. He replied that he had not, and in obedience to my request he sent me the subpoenas which I had filled up in my office and served, acting solely and entirely for this committee, and without regard to any other interest, except the professional one which I was engaged in, to wit, my duty to this committee.

I proposed, as counsel for this committee, to prove this state of facts: That a discrimination by railroads—and among them the Pennsylvania Railroad—which amounted to millions of dollars a year, had enabled the Standard Oil Company to maintain its practical monopoly of the oil trade. In order to show that, it was necessary to prove, by anybody who had knowledge of the subject the fact that these drawbacks, rebates, and allowances were made. To do that, eight or ten officers of the Pennsylvania Railroad Company were subpoenaed; among them the general traffic manager, who would know all about the contracts they had for carrying oil; the treasurer, who would know what money had been paid out in drawbacks; the secretary, who would have charge of the papers of the company, and therefore know where the contracts were; and the head and assistant head of the three departments to which, if any money were paid on such drawbacks, the vouchers would have been presented.

Now, so far from this subpoena *duces tecum* having the extent which my friend Mr. Scott claims it has, the only things that are asked to be produced, apart from the five or six specific things which could be found in five minutes in any office of a company so well regulated as the Pennsylvania Railroad, are specific contracts, made at such and such a rate, that can be found in a moment.

The other things that are asked to be produced from 1870 to 1888 inclusive are what? Nothing except two classes. First, any contracts they made to carry oil that are in existence. Their contract-book will show them that in ten minutes, certainly. Next, any rebates, bills, or receipts for rebates or allowances made from 1870 to 1888. Every rebate or allowance entry in their ledger, if it is turned to, will in twenty or twenty-five minutes surely enable an expert clerk to lay his hand on all such papers, if there are any. The books, manifests, and accounts about the shipping of crude oil that are asked to be produced, are only for the last seven years, from 1881 to 1888, inclusive.

Now, it is utterly impossible to conduct this investigation without having the power of this committee to secure the production of these papers, provided the gentlemen connected with this company will not relieve us of the necessity of producing the papers by themselves, as witnesses, testifying to their knowledge of the facts. Without this, unless this goes on, the examination is a farce. In my judgment, there is no more doubt than that I stand here that by the production of these papers we will be able to show that this Standard Oil Company, that now controls from 85 to 90 per cent. of the business interests, was enabled to grow to that proportion and break up every single opponent or rival they had, simply because at the time they entered into business, some twelve or fifteen years ago, and as late as nine years ago, they received on every barrel of oil they shipped—to use no worse phrase—an illegal drawback, and that, in addition to that, they were paid the same drawback on every barrel that everybody else shipped. If this is not a fit subject for Congressional investigation I do not know what is; and if these gentlemen are to suppose that the process of the subpoena is not to be obeyed, then there is no use of going on with it.

Now, in answer to what Mr. Scott alleges, that this may not be interstate traffic and therefore Congress has no power over it, I will call the committee's attention to the fact that you are not engaged in an investigation of interstate commerce. You are engaged in an investigation as to rebates producing monopolies, and the particular monopoly is the Standard Oil Company, which is what?—engaged in business all over the United States. Now, if the Standard Oil Company, handling 20,000,000 barrels of oil a year or more, all of which except a trifle comes out of the State of Pennsylvania—I say, if the Standard Oil Company, engaged in this business, which extends all over the United States and to foreign countries, makes an arrangement with a company in a particular State in which the oil originates, that at the well they are to have 50 cents or \$1 a barrel on this 20,000,000 barrels, the result of it is that that profit which they illegally made enables them to conduct their interstate commerce all over this country to the injury of everybody else and grow rich, while everybody else is becoming poorer. Is it any answer to you gentlemen who are engaged in investigating how a monopoly grew into existence to say that that rebate given by the Pennsylvania Railroad Company was only given to the Pennsylvania State? How easily could all interstate commerce be evaded if a party sending goods from New Orleans to New York in competition with twenty others were enabled to get such a rebate in the State of Louisiana as would practically reduce their rate of transportation outside of that State to nothing and destroy everybody else? Is not that a fit subject for investigation?

Now, I must also reply to a remark—I do not know whether it was a professional or otherwise remark—of my learned friend, Mr. Scott, that I am endeavoring here—I suppose he alluded to me, because I am the only one who had anything to do with the preparation of—

Mr. SCOTT. Permit me right here. The relation between you and me has entirely changed since I came into this room. I did not suppose you were a component part of this committee. It seems you are retained as counsel of the committee to prosecute the Standard Oil investigation only, and not the anthracite part of it. You will pardon me for supposing that with your prominence as the counsel for the Reading Railroad Company, and as the receiver, and as the gentleman who made contracts, if I am correctly informed, with the Empire Line for the transportation of oil, this was the last position in which I expected to find

you. Finding you here as counsel I shall extend to you the courtesies of counsel, so long as you see proper to maintain that position, which is, of course, a question for you, and I feel quite sorry that I did not know that my argument was to be addressed to a gentlemen who is to be the counsel of the committee in advising them what weight shall be given to my arguments.

The CHAIRMAN. The relation now being understood, you can go on.

Mr. GOWEN. I only desire to say that the only claim I have in any way against the Pennsylvania Railroad Company is a little matter that I have been corresponding with my friend Mr. Scott about, and which I hope he will settle, which has not any relation to this.

Mr. SCOTT. Very pleasantly.

Mr. GOWEN. I have no interest whatever against the Pennsylvania Railroad. I will take any good case that anybody will bring me against them. I do not mean to say I will stop that. I have been asked within the last few days to know whether I would accept a retainer to sue the Pennsylvania Railroad. I said certainly, but I have not received it yet. Why should I, even if I did occupy that position, or if anybody in this community or elsewhere was interested in a suit against the Pennsylvania Railroad Company, prevent the committee from having these facts brought out? If the Pennsylvania Railroad Company has done no wrong, the production of this testimony will do them no injury. If the Pennsylvania Railroad Company, in violation of its duty as a common carrier, has given a rebate of 50 cents, or 75 cents, or 25 cents, or 45 cents a barrel to one shipper of the Standard Oil Company, while they have not given it to another, will you gentlemen refuse to have that proof before you because the man who is injured can therefore bring a suit against the Pennsylvania Railroad and recover the money back? Why should he not? That is one of the very evils you are supposed to cure.

Having said this much, I have nothing more to say, except that this subpoena both as to the person and the *duces tecum* clause should be obeyed. Of course, if I can aid Mr. Scott or the Pennsylvania Railroad Company by getting through two or three of these persons the information asked for, it will not be necessary to bring them all. But we subpoenaed them all, so that there might be no doubt of catching at least some of them whose knowledge of this subject would enable us to ascertain the facts, and so that we might have everybody who was supposed to have possession of the papers.

Mr. SCOTT. Of course the committee does not wish that I should remain while they consult their counsel.

Mr. BUCHANAN. I would like to ask you a question or two for information. The sixth requirement here is a requirement to produce "all books, statements, manifests, and accounts of the Pennsylvania Railroad Company, or any department thereof, showing any shipments of crude or refined oil over the lines operated by the said company, or any part thereof, during the years 1881, 1882, 1883, 1884, 1885, 1886, and 1887, showing in case of each shipment the name or names of the consignor and consignee, the point of origin and destination," etc. Let me ask you from your general knowledge of the method and conduct in the business of that company as to whether that would require the production of each manifest from each party at each time, and whether the amount of oil would be larger or smaller, and if so, from your knowledge approximate the number of manifests it would require.

Mr. SCOTT. I have not sufficient knowledge of the details of the business to enable me to give any approximate idea. I can only say that one

of the gentlemen named, who is in charge of the freight receipts, in speaking on this subject, stated to me that to obey this subpoena literally would require the work of several clerks for a month or two, and I used his language when I said it would take that number of cars to bring that down here after it was looked up.

Mr. BUCHANAN. That looks to me as if it would require the production of each manifest or way-bill, whatever it may be called, which would consist of an immense number of papers.

Mr. SCOTT. Seven years, "showing in case of each shipment the name or names of the consignor and consignee."

The CHAIRMAN. Mr. Scott, before you leave us, can you indicate at all when it will be convenient for any of the officers of your company to come here; because, while we desire to go on with this investigation, we do not desire to be inconveniencing any gentleman unnecessarily.

Mr. SCOTT. I do not know that I could at this time say when it will be convenient for those officers to come. If your committee conclude to follow this investigation and to compel the attendance of these witnesses, if they are given some days' notice I will say that they will endeavor to conform their convenience to their duty with respect to that subpoena. Some of our officers have frequently to be away.

The CHAIRMAN. The question is put to you because we have the officers of other corporations here under subpoena, and they had definite and specific reasons why they could not conveniently come on certain days. They gave me that information, and it was arranged that they need not come here when there was a special reason for their being excused, and I desire to know whether there is anything of that sort that you know of now.

Mr. SCOTT. I take it that we will be informed as to whether the subpoena, which is now considered served, is to be insisted upon literally; or, if there be any modification of it, that we will be informed to what extent, and when I have that information I will take it up to our officers and endeavor to instruct them as to their duty, and instruct them to come when it will be convenient for them to do so.

Mr. GOWEN. I think the witnesses were obliged to be here to-day, and I am perfectly willing—if I am to conduct this investigation, and if the witnesses are to be here on Wednesday or Thursday—as to the multiplicity of things asked for in the sixth paragraph, to relieve them from a great deal of its voluminousness, provided the other things are brought.

Mr. SCOTT. Am I correct in understanding that the investigation is to be conducted by the counsel of the committee?

The CHAIRMAN. Yes, sir; it is to be conducted by the counsel of the committee, and I suggest to you that, after the committee have had a conference with their counsel, it may be desirable that the counsel for the committee and the counsel for the Pennsylvania road should confer, if agreeable to you.

Mr. GOWEN. There are a great many things we will only require in case we can not get the information in other ways, and if these gentlemen of the Pennsylvania Railroad will tell us it may relieve them.

Mr. BUCHANAN. I was about to suggest that it may not be possible for the gentlemen of the committee to determine as to what they would evidently require prior to an examination of these witnesses. It may be that an examination of these witnesses may result in the dispensing with these things.

The CHAIRMAN. It seems to me, and I desire to say in all kindness to counsel here, that if the counsel for the committee and the counsel for the Pennsylvania Railroad Company sit down with an earnest desire

to reach an agreement that the difficulties which we apprehend here, and which were expressed to us by the counsel for the Pennsylvania Railroad Company, will largely disappear. Now, I am speaking only for myself, and as to the result of what I understand to be the determination of this committee. I desire to indicate that what this committee understands to be its duty is not to inquire whether the Pennsylvania Railroad Company has complied with the interstate commerce law, but it is to ascertain whether the Standard Oil Company or the Standard Oil Trust by reason of any arrangement with the Pennsylvania Railroad Company acquired advantages which have resulted in the creation of that enormous concern to the detriment and injury of anybody else, and whether the interstate commerce law needs amendment or correction, or whether it needs extension in any way, or whether any new law is called for by reason of the facts which may thus be developed.

We are not prosecuting anybody. We simply wish to ascertain the facts. We are simply desiring to know how this thing came about and how it exists to-day, and what its growth was, and what its method of growth was, and when we have gotten that this committee is to take that back to the House for the purpose of such legislation as the House may deem to be proper.

Mr. SCOTT. Pardon me for suggesting that I do not think it quite the thing to suggest a conference between the counsel for the Pennsylvania Company and the counsel for the committee. These gentlemen who are subpoenaed as witnesses happen to be officers of the Pennsylvania Railroad Company, discharging their duties as such. I do not suppose the committee is yet quite ready to say that the Pennsylvania Railroad Company is a sinner above all men, and that Mr. Gowan, being without sin, shall cast the first stone at it. Before he examines the Standard Oil Company or anybody else he charges them to be a trust.

The CHAIRMAN. Permit me to say that this committee is not casting stones at anybody, nor is its counsel. If you object to my designating you as counsel for the Pennsylvania Railroad I will withdraw that and say counsel for these witnesses to whom I extended an excuse this morning, at the request of gentlemen who came here on their behalf.

Mr. SCOTT. What I wish to avoid is to having the Pennsylvania Railroad Company designated as the party who is sinning against the law, and who is to be first investigated. Their officers are subpoenaed as witnesses, as I understand it, for the purpose of fastening the sin upon the Standard Oil Company, and what I objected to was to putting the Pennsylvania Company in the position of the great sinner.

The CHAIRMAN. If you are not counsel for the Pennsylvania Railroad Company I do not know why you should trouble yourself about the question whether they are sinners or not, as far as this committee is concerned.

Mr. SCOTT. I am not troubling myself as to whether they are sinners or not, and, moreover, the tone of the remark about my coming here before this committee to explain that these men could not come here rather satisfies me that I ought not to leave this question to you, to be decided by you and by your counsel.

The CHAIRMAN. I have no power to decide in any way. I do not want you to misapprehend the fact that this committee is sitting here, not with the idea of prosecuting anybody, but in search of information.

Mr. SCOTT. The resolution under which you are acting directed no investigation against the Pennsylvania Company, nor was it named in that discussion. It did direct an investigation against the anthracite combination and the Standard Oil Company. If our officers can be

witnesses without exposing our private business publicly, giving it to litigants against it, they shall be witnesses; but we will endeavor to protect the interests which are confided to us, no matter who may be directing the investigation against the Standard Oil Company.

Mr. BUCHANAN. It is evident that the course of the investigation by this committee, so far as it has proceeded, is not exactly understood. We are investigating these trusts, these combinations, by whatever name they may be called. We have at present under consideration the case of the Standard Oil Trust or combination or whatever it may be called, and this is not the commencement of that investigation. We have had other witnesses before us who have detailed transactions which their organizations had with the Standard Oil, and in that way we are endeavoring to ascertain the truth as to the operations, not of these other corporations, but of the Standard Oil combinations, to ascertain to what extent it has been enabled by these operations to have an advantage over other competitors outside of and beyond fair business competition. That, it seems to me, is all this committee desires.

The CHAIRMAN. That is all, as far as I understand it. From whatever source they may get it, it is immaterial to them, so that they ascertain the method of operations of this company in order to be able to apply any remedy by legislation which is within the specific power of Congress to apply. It seems to me that if that were understood it would then be understood that we are prosecuting no one, and especially so as to these witnesses.

Mr. GOWEN. Permit me to state in relation to these officers that probably fifteen or twenty railroads have been subpoenaed to attend this committee. The Pennsylvania Railroad is only one out of fifteen or twenty. The reason it is given this prominence is because the counsel for the Pennsylvania Railroad is here to say that the gentlemen of his company can not attend. Every railroad company that has given an illegal rebate to the Standard Oil Company has been called to prove it.

Mr. SCOTT. This is the first appearance of the railroad company.

Mr. GOWEN. There are forty witnesses who are officers of railroad companies who are subpoenaed next week. I will have to get through with this examination this week and next week. We have subpoenaed twenty-six witnesses for this week and forty next week.

Mr. BUCHANAN. I would say further in connection with the suggestion of Mr. Scott that I am advised there are suits pending in the State of Pennsylvania under State law, testimony in support of which might be developed here; that as a member of this committee I desire that the committee should avoid even the appearance of using its public purposes for private ends, and it may be that a conference between the parties interested would be such as to avoid promulgating any facts that might be developed in a private suit, and at the same time attain the ends of the committee.

The CHAIRMAN. It seems to me that the only trouble on this point is this, that no testimony ought to be taken or admitted here which relates solely or mainly to any private lawsuit or controversy between this road or any other road and any individual; but that we should not refuse to take the testimony which is material to the subject that we are investigating, to wit, the method of operation of the Standard Oil Trust, because it may incidentally affect some other private matter. That seems to me to be the rule. (To Mr. Gowen). Are there any witnesses present?

Mr. GOWEN. The witnesses whom I subpoenaed have asked to be ex-

caused by the chairman, either on account of illness or for some other reason. It is very important, I think, to hurry this thing through and get done with it promptly and systematically, letting the examination commence in order and chronologically, so that any witness testifying out of his time may be understood. If you take the witness who happens to be in the room to-day he may testify to something that amounts to nothing, whereas witnesses who are to be examined before him ought to be produced. There are twenty-six or twenty-seven witnesses that I propose to examine here this week, including those of the Pennsylvania Railroad. There is one witness here, Mr. Malcolm Lloyd, whom I would not prefer to examine just now.

Mr. MALCOLM LLOYD. I do not see why my evidence to-day will not be just as plain as any other day. It will be taken down, and it is very important that I should get home to-night. My wife is not well, and I feel that if the committee can extend that courtesy to me I would like it very much. I can not see just particularly why it should not occur.

Mr. GOWEN. It is for you gentlemen to say. It will not take long to examine Mr. Lloyd.

Mr. SMITH. You have taken upon yourself the work of conducting the examination of this committee. We do not wish to go to work and interfere with your examination. You have already blocked out your proceeding.

Mr. GOWEN. Yes, sir; according to the course I have blocked out to the chairman, and I would rather prefer to examine other witnesses who come afterwards; otherwise, this sporadic examination of these witnesses who come will make an undigested and complicated mass of material which could not be understood.

Mr. CROUSE. Whatever importance this witness's testimony may have it can be inserted in the record at its proper place.

Mr. GOWEN. Yes, sir; we will take it *nunc pro tunc* and insert it in the record at its proper place, if that will be any relief to Mr. Lloyd.

Mr. SMITH. If that is satisfactory to you we will go on.

Mr. GOWEN. I would like, when the report is made up, to have this testimony come in at the proper place.

TESTIMONY OF MALCOLM LLOYD.

MALCOLM LLOYD, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. What is your age?—A. Forty-nine years.

Q. In what business are you engaged?—A. Until recently I have been engaged in the refining of petroleum, and am now connected with the Atlantic Refining Company.

Q. How long were you engaged in the refining of petroleum as an independent refiner on your own account?—A. Since 1864.

Q. Where was your refinery located?—A. The first refinery was located at Twentieth and Washington avenue.

Q. Philadelphia?—A. Yes, sir.

Q. Did you change from there?—A. When the business changed we moved to Gibson's Point on the Schuylkill River. Two or three years after that the refinery was burned down and we moved on the river, where the oil could be exported.

Q. How long have you been engaged on the river at Gibson's Point as a refiner?—A. We went there in 1866 or 1867; I have forgotten just what year.

Q. Is that refinery still in existence?—A. It is still in existence.

Q. Are you conducting it?—A. I am not.

Q. Who owns it now?—A. The Atlantic Refining Company.

Q. Is that one of the companies which is affiliated with the Standard Oil Company?—A. I understand it is.

Q. You sold it to them, did you not?—A. Yes, in December last.

Q. Not last year?—A. Yes, sir; I made an arrangement with them by which they have charge of the works, and the works have been incorporated with theirs.

Q. Are you connected with the Atlantic Refinery in any way?—A. Yes, sir; treasurer of it.

Q. Have you charge of the business of refining oil?—A. No, sir; not particularly. It has only been since January that I have been there, and I have been sick for about six weeks, so that I am not very well acquainted with the details.

Q. Who is the president of the Atlantic Refining Company?—A. William G. Warden.

Q. Who is the secretary?—A. Mr. Bushnell.

Q. John Bushnell?—A. C. E. Bushnell.

Q. How did you get your oil when you were an independent refiner?—A. By the Pennsylvania Railroad Company for twenty years, or since 1864 and then also by the Reading road after the Tide-water Line had been established. I mean by that a number of cars—not many cars, but a few cars.

Q. What was the capacity of that refinery during the last few years?—A. A thousand barrels of crude oil a day.

Q. To what extent did you run it?—A. Fully.

Q. To a thousand barrels?—A. That is to say as fully as most refiners run their refineries.

Q. Can you give us the rates you paid on oil during the last three or four years up to the time you sold the Atlantic Refinery?—A. I think it has been 40 cents a barrel.

Q. Where did you ship your refined oil?—A. To any part of the world.

Q. Shipping it from Philadelphia?—A. Shipping it from Philadelphia.

Q. Did you receive at any time any rebates from the Pennsylvania Railroad Company up to the time you sold out to the Atlantic Refinery?—A. Yes, sir; in several instances.

Q. On crude oil?—A. Yes, sir.

Q. What did they amount to?—A. I could not begin to tell you. It has gone over a long series of years. I received drawbacks several times during that period.

Q. How frequently were those drawbacks paid, monthly or weekly?—A. Monthly.

Q. Did you make out a bill against the company for the drawback, or did they send you a voucher from their officers showing what it was?—A. We generally made a bill out.

Q. Where are copies of those bills?—A. I do not know, sir. My papers, after I discontinued my individual business—most of these things were destroyed.

Q. Are they all destroyed?—A. I judge so.

Q. Are your books destroyed?—A. No, sir.

Q. When you received a drawback it was in cash, was it not?—A. Generally.

Q. To what account did you credit that in your books?—A. That I am not able to say now. Of course they (the books) are now there. I did not keep the books.

Q. You could tell from looking at your books what rate of drawbacks you received?—A. Yes, sir.

Q. Will you do that for us and make out a statement?—A. I will do so if it is deemed proper that I should.

Q. By whom?—A. By the committee.

Q. Did you receive any drawbacks on refined oil shipped by railroad from your refinery?—A. I never shipped any.

Q. You never shipped any by railroad?—A. Not refined oil. My business was that of a refiner of crude petroleum.

Q. Was your entire market for refined oil abroad?—A. Yes, sir; until recently we had a trade since we went into it, for the last three or four years. We did not court that trade; we did not try for it before that time.

Q. But you did ship inland refined oil by railroad, did you not?—A. Yes, sir.

Q. Did you receive any rebate on refined oil when you were an individual refiner, working on your own account?—A. No, sir; because I did not ship refined oil from the West.

Q. I don't mean from the West, but from your refinery. You shipped refined oil from your refinery to your customers?—A. No, sir; we never received any. Allow me to explain that. I said in the last three or four years we had courted the home trade; before that time we did not. We did not think it was worth following.

Q. What I want to know—and you have answered it, and if your answer is correct you need not answer again—is, on that refined oil which you shipped to the home trade when you were in business yourself, did you not receive any rebates or drawbacks?—A. I do not think we ever shipped a car of refined oil out of the State of Pennsylvania. Yes, we have sent some to New York, but only a very few, and on those we received no drawback whatever.

Q. Did you receive any drawback on any refined oil that you shipped?—A. No, sir.

Q. In the State of Pennsylvania or elsewhere?—A. No, sir.

Q. Did you receive any drawback on account of refined oil, even if the drawback was paid in another manner?—A. No, sir.

Q. Now then, leaving your own business, and coming to the business of the Atlantic Refinery, of which you are the treasurer—when you sold out your business to the Standard Oil Company did you retain any interest in it?—A. No, sir.

Q. None whatever?—A. No, sir.

Q. Was it guarantied to you that you should have a salary?—A. I believe that I should be relieved from answering those personal questions. I am perfectly willing to give the committee any general information they want; but is it fair to ask me about a salary which I may or may not be receiving? Now is it right, or is it fair?

MR. GOWEN. The question is, gentlemen, and the point I make is that this is one of the ways the Standard Oil Company has made a monopoly, or have conducted a monopoly, so that the individual refiner can make little or no money. They go to a refiner and buy him out and pay him a small salary. That is the very subject of your investigation.

The WITNESS Allow me to say that whatever was done as between myself and the Atlantic Refining Company was simply my desire generally that it should be done. They never said one single word to me. I went there, made my own arrangements, was treated generously, and deemed it wiser to conduct my business in that way than in an individual way; but no force of any description was used.

Q. Was any persuasion?—A. Nor persuasion.

Q. Was it not agreed that you should have a large salary to continue for a certain time as one of the conditions of this sale?—A. No, sir.

Q. Are you not now receiving such salary from the Atlantic Refinery?—A. I beg now to be excused; I have answered your question.

The CHAIRMAN. If there is any question about it, we will have to go into executive session, I suppose.

Mr. GOWEN. Yes, sir.

The CHAIRMAN. Is it desirable to do it now?

Mr. GOWEN. No, sir; we will waive it for the present.

By Mr. GOWEN:

Q. Now, Mr. Lloyd, where does the crude oil that is refined by the Atlantic Refinery now come from—from what districts?—A. I of course know very little about that, Mr. Gowen, except what I hear.

Q. You are an officer of the company?—A. True; but when you ask me whether I know positively where that oil comes from, can I answer unless I have actually seen the oil started? Do you mean that I shall go into that kind of detail?

Q. I will ask you by what line of railroad does it come to you.—A. Some by the Pennsylvania Railroad.

Q. Any by any other road?—A. I don't know. The Pennsylvania Railroad is the only road, except the Reading, that brings oil into Philadelphia, and I have frequently tried to get oil from the Reading but was not really able to succeed.

Q. The question is, where does the oil come from?—A. I suppose it comes from what you know to be the Bradford region.

Q. By what railroad does the oil that the Atlantic Refinery gets come over?—A. Some of it comes over the Pennsylvania road.

Q. Does any of it now come over any other line than the Pennsylvania?—A. Not that I know of. I say I do not know that there is any other line that can reach it.

Q. Why did you say that some of it came; does not all of it come over the Pennsylvania?—A. Some of it is transported by pipe.

Q. Does any of it come through pipe?—A. Yes, sir.

Q. Whose pipe is it?—A. The National Transit Company.

Q. That is affiliated with the Standard Company?—A. I think so.

Q. It is one of the companies that is in the Standard Trust?—A. I don't know anything about the Standard Trust.

Q. Don't you know as a business man that the National Transit Company is affiliated with the Standard Trust?—A. Yes; I think it is.

Q. Who is the president of the Transit Company?—A. I think Mr. Clement A. Griscom.

Q. Do you know what is now paid by the Atlantic Refinery for crude petroleum transported to them by the National Transit Company?—A. When the oil comes from the upper regions, the Bradford regions, 40 cents is paid; and when the oil comes from the lower regions, 50 cents is paid.

By the CHAIRMAN:

Q. That is, per barrel?—A. Yes, sir

By Mr. GOWEN:

Q. Does that payment of 40 and 50 cents, respectively, include the pipage on the local line?—A. No, sir.

Q. What is the pipage on the local line?—A. Twenty cents.

Q. In both cases?—A. Yes, sir.

Q. Therefore the National Transit Company, running this pipe alone, receives from the well to the refinery in Philadelphia, including main lines and local lines, 60 cents a barrel from that which comes from the Bradford field, and 70 cents from that which comes from the lower field?—A. Yes, sir.

Q. What rate does the Atlantic Refinery pay to the Pennsylvania Railroad Company on oil from the Bradford field?—A. Forty cents.

Q. What rate on oil from the lower field?—A. Fifty cents; and allow me to continue that that also, the 20 cents pipage, is to put the oil on the car.

Q. That is to say, in addition to the freight that you pay to the railroad of 40 cents and 50 cents, respectively, you also in that case have to pay 20 cents local pipage as well?—A. Yes, sir.

Q. Therefore, the rate of the railroad is exactly and identically the same as the rate on the pipe line?—A. Yes, sir.

Q. Now state whether or not the Atlantic Refinery, to your knowledge, has received any rebates or reduction on crude oil since the time it purchased your refinery?—A. No, sir.

Q. Do you mean to say it has not?—A. It has not.

Q. Now state whether or not, since the Atlantic Refinery purchased your refinery, it has received any rebate on refined oil?—A. No, sir.

Q. Are you sure of that?—A. None that I know of. If there was I think I would know of it.

Q. Therefore the rate on the railroad for your oil is identical with that on the pipe line for your oil?—A. Yes, sir.

Q. Where is the refined oil of the Atlantic Refinery now sent to?—A. All over the world.

Q. Is it mostly sent abroad?—A. Yes, sir.

Q. What proportion goes abroad and what proportion elsewhere?—A. I think three-fourths.

Q. Is that which goes abroad shipped from Philadelphia, or do you send any of it to Commuipaw, N. J.?—A. All shipped from Philadelphia.

Q. Has the Atlantic Refinery since it got into the Standard Oil Company ever shipped any refined oil from its refinery in Philadelphia from any other port than Philadelphia for the purpose of being shipped abroad?—A. Not that I know.

(At this point, 1.15, p. m., the committee took a recess for fifteen minutes.)

The recess having expired, the committee resumed its session.

The CHAIRMAN. Mr. Lloyd, the committee have had under consideration the questions and answers put to you about the rate of drawbacks you received, and have reached the conclusion that you should furnish the statement as called for.

The WITNESS. Well, sir, I will do my best to furnish it. I stated a little while ago that most of my papers were destroyed.

The CHAIRMAN. I will hand you a copy of the record as it stands.

(The stenographer copied that part of the record indicated by the chairman and the same was given to the witness.)

By the CHAIRMAN:

Q. You are the treasurer of the Atlantic Refining Company?—A. Yes, sir.

Q. To which you sold your property?—A. Yes, sir.

Q. When did you become such treasurer?—A. About the first of January.

Q. 1888?—A. Yes, sir.

Q. Are you, as such treasurer, paid a salary?—A. Yes, sir.

The CHAIRMAN. Gentlemen, I will ask you to retire once more, and the committee will hold an executive session for a moment.

Mr. LLOYD. I did a petroleum refining business alongside of the Standard Oil Company for twenty years. I made money in my business and attended to my business. I believe in the accumulation of capital to do business, and I believe that sentiment is growing over the country. We are going to do business on a larger scale, and for that reason and that reason alone, I sought to become a portion of them, and throw in my small capital with their larger ones; but it was entirely my own volition and desire.

By Mr. GOWEN.

Q. Then I will ask you one question. Are you interested with them? Did you accept in payment of your property any interest in theirs?—A. Yes, sir; of course.

Q. What did you accept?—A. We accepted the Standard Oil Trust.

Q. Certificates?—A. Yes, sir.

Q. Have you any objection to telling us how many you got?—A. Yes, sir; I have objection; the same objection that I have stated heretofore, that it was entirely upon my own volition and wish.

Q. In selling out to them you became a member of their fraternity by accepting their certificates in their Standard Trust as the compensation of the property you turned over to them?—A. Yes, sir.

By Mr. SMITH:

Q. And you find it to pay just as well or better than when you were doing business before?—A. I have not been there long enough to find that out.

Q. How long have you been there?—A. Since January.

By Mr. GOWEN:

Q. You evidently expected to better your condition financially by joining them?—A. Yes, sir.

Q. You expect now to receive as dividends upon their trust certificates a larger profit than you received as an individual in competition with them?—A. I do not know.

Q. If you did not do that, why did you sell to them?—A. Because, as I stated, I believe a change has come over our country in the way of doing business. Whether it is a good change or not I do not know.

Q. Were you willing to jeopardize your property and become a minority holder in a larger corporation without a well-founded belief on your part that it would result to your pecuniary advantage?—A. I believed, as a matter of course, it was wise for me to do.

Q. Did you not believe it was a profitable thing for you to do?—A. Yes, sir.

By Mr. BUCHANAN:

Q. You speak of receiving trust certificates. Please explain what they are.—A. They are the evidence of ownership. I placed my prop-

erty in with the Atlantic Refining Company and received this evidence of ownership, and became one of the stock company, or one of the stock-holders.

Q. Of the Atlantic Refining Company?—A. The Atlantic Refining Company is, of course, connected with the Standard Oil Company.

Q. But what did you get—Atlantic Refining Company corporation certificates, or Standard Oil Trust certificates?—A. Standard Oil Trust certificates.

By the CHAIRMAN:

Q. Standard Oil Trust certificates?—A. Standard Oil Trust certificates.

By Mr. BUCHANAN:

Q. Do you remember how they read?—A. No, sir; I do not.

Q. Have you one with you?—A. I have not.

Q. Do you remember by whom issued?—A. I think by Mr. Rockefeller, the president of the Standard Oil Trust.

Q. Are you speaking now of certificates in the Standard Oil Trust or the Standard Trust?—A. The Standard Oil Trust.

Q. Did you receive certificates to the amount or in excess of the appraised value of your property which you turned over?—A. Just exactly the appraised value. We appraised it carefully.

(At this point the committee went into executive session for ten minutes, after which the doors were re-opened, when the chairman announced that the committee had adjourned until to-morrow morning at 11.30 o'clock.)

WASHINGTON, D. C., April 24, 1888.

The committee met at 11.30 a. m. Present: The chairman, Mr. Smith, Mr. McKinney, Mr. Grimes, Mr. Bunnell, Mr. Bynum, Mr. Crouse, and Mr. Wilson.

Mr. JOSEPH J. POTTS having been subpoenaed to appear before the committee, and having not yet arrived, the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

Mr. SMITH (to the CHAIRMAN). Has there been any answer received from this witness Potts?

The CHAIRMAN. Yes, sir.

Mr. SMITH. What is the reason he is not here, or is he here?

The CHAIRMAN. He is not here. He telegraphed to me that he did not receive my dispatch in time to come over, and asks to be excused until Friday. In a telegram I am about sending him now, I have directed him to be here to-morrow morning.

Mr. SMITH. I hope you will be a little more stringent with these witnesses. I do not like the idea of fooling away our time here. I believe in bringing these men here, and if they won't come, sending a sergeant-at-arms after them.

Mr. GOWEN. I have now to lay before the committee the original subpoenas of all these witnesses, with affidavits. All the subpoenas will be here in a few days. Some of them went to New Orleans, Louisville, and Nashville,

TESTIMONY OF THOMAS W. PHILLIPS.

Having first duly affirmed, Mr. PHILLIPS testified as follows :

By Mr. GOWEN :

Q. Where do you reside, Mr. Phillips ?—A. In New Castle, Pennsylvania.

Q. You are interested in the production of petroleum, are you not ?—A. Yes, sir.

Q. Largely ?—A. Yes, sir ; largely.

Q. How long have you been engaged in the business ?—A. Since 1861. I began drilling for oil in that year. In 1862 I became more actively engaged in it.

Q. What is the amount of your production, in thousand barrels, per day ?—A. When I signed this contract to shut in I was producing 6,600 barrels per day. I produced 173,000 barrels the month prior to that time.

Q. You occupy the position of president of what is called the Producers' Association, do you not ?—A. Well, I presume that that has become an open secret at the present time. Such is the case. While I might not be at liberty to state the other officers, I think I would be at liberty to state that.

Q. I have understood that you desire of your own motion to make some statement to the committee with reference to the matters connected with the oil regions, and the present method of doing business there. If so, you will please, in your own way and in your own manner, just state what information you desire to give to the committee.—A. I would not desire to do it. It was not a desire on my part in the first place ; but learning that there might be some testimony given here, and more especially some by parties out of the State, that would not be favorable to the contract which the Producers have made with the Standard, it was thought well by myself and others that we should make a more full statement than had been heretofore made in regard to that particular part of the business—the contract.

Q. I understand that the chairman is willing that you should make your statement, and say whatever you desire to say on that subject, and if you will please go on the stenographer will take it down.—A. I will state that I have a paper here, prepared and signed by a number of persons largely interested in this industry, and all parties to the contract with the Standard. It is not lengthy, and I would be pleased to make my affidavit to it or make it a part of my testimony. May I be permitted to read it ?

The CHAIRMAN. Allow me to look at it and see what there is in it, please.

(The witness handed the paper to the chairman.)

The CHAIRMAN (after examining the paper). I do not see any objection to your reading that, if you desire to, as your statement in reply to Mr. Gowen's suggestion that you can make a statement to the committee.

The witness then read the following paper :

BUTLER, PA., April 18, 1888.

DEAR SIR: The undersigned members of the executive committee of the Producer's Protective Association, having been informed that in the course of your investigations

you have deemed it proper to inquire into the nature and purposes of our association, beg leave to submit a brief statement with the annexed statistical circulars for your information.

The production of petroleum is the principal industry in a considerable territory in the States of Pennsylvania and New York, employing the labor and talents of many thousands of people.

This section of country had become impoverished, and the people so engaged on the verge of bankruptcy, because of the long-continued depression of the price of crude petroleum below the cost of its production, and below a price warranted by the legitimate relations of supply and demand.

Upon investigation the producers believed this unhappy condition of their business was due to two causes; one the existence of 31,000,000 barrels of crude petroleum stored in tanks in advance of consumption, and the other the continual selling short by speculators who were not interested in the business of production of petroleum, nor, indeed, in any legitimate business connected with petroleum in any way, but who persisted in selling short, gambling on the hope of differences in their favor, without having any oil to deliver nor expecting to have any to deliver.

The second cause above named was not in our power to remove. It is aggravated by the usage in the various oil exchanges, which by a system of so-called clearances enables a day's transaction involving millions of barrels to be made with the use of so much actual oil only as will settle balances on the brokers' sheets, and by the further usage in such exchanges which allows to the short seller the current charges for carrying, which the holder of petroleum must pay.

This second cause can be corrected only by legislation. Such gambling in differences, we were advised, is illegal, but that the only penalty for its commission is in the refusal of a court to enforce any contract of that character. As a remedy this is wholly ineffectual. Further legislation is needed to prevent it and adequately punish the offender. If, under the power to regulate commerce, Congress can and will enact a law to meet this evil, it will confer a great blessing on those engaged in this now languishing industry.

The first cause was, the producers conceived, within their own control. They created the Producers' Protective Association, embracing a large majority of the producers, and agreed with each other to restrict production for a year, intending thereby to reduce the stock above ground to an amount consistent with a healthy condition of business, and a remunerative price to them for the capital and labor employed in production, and also by thereby compelling the use of existing stocks to prevent the unnecessary waste of value caused by their continuing deterioration.

These stocks of oil depreciate in value with age. Evaporation eliminates the more valuable constituents to a large extent, and the practical result of delayed use is less oil with more worthless residuum, and of course involving a large decrease in value, which is so much loss to the wealth of the nation. The reduction of stocks which we aim to accomplish affects the second above-named cause of our distress, in this, that it removes the basis of one of the strongest arguments upon which a sentiment in favor of short selling was grounded, for production and consumption were on a healthy basis. It was the existence of these large visible stocks alone that lent a color of justification for the extremely low prices which have prevailed in recent years.

We beg you to observe that the producers' action is one which, while it advances the interests of those engaged in this industry, appeals to the sympathy of the entire nation, for the petroleum producer looks to the world for his market, two-thirds of the oil being exported and consumed in foreign lands.

Our efforts tend to increase the national wealth by bringing into the country from abroad more money for the commodity we produce.

Nor is the advance in the cost of refined oil on the smaller proportion consumed in this country sufficient to be worthy of consideration as an argument against our efforts, for each 4 cents a barrel of advance on crude petroleum is equivalent to an advance of but one-eighth of a cent a gallon in refined.

The imperative necessity for a higher price than has recently prevailed is plainly shown in the annexed circulars, showing the actual cost of production to be far above the price received.

While we believe the facts above set forth amply vindicate the producers' movement to restrict production, there is one feature peculiar to the production of petroleum which makes combination indispensable. Owing to the fluid nature of this commodity, the oil in one tract of land may be extracted by wells upon an adjoining property. One owner, therefore, can not stop producing while his neighbor continues without having his oil extracted by his neighbor's wells. The remedy open to individual operators in other branches of business, to quit when prices are low, can not be applied in this business without suffering meanwhile the loss of property. Justice and necessity therefore in this case require producers to join for the restriction of production to accomplish the end which in other branches of business is accomplished by

individual action. We respectfully pray, therefore, if within the province of Congress, such remedial legislation as will aid the purpose for which we labor.

T. W. PHILLIPS.
H. L. TAYLOR.
JOHN L. MCKINNEY.
RUFUS SCOTT.
N. F. CLARK.
DAVID KIRK.

Hon. HENRY BACON,
Chairman of the Committee on Manufactures, House of Representatives.

[For circulars referred to see page —.]

By the CHAIRMAN:

Q. Is there anything you desire to add to what is contained in that statement?—A. Well, now, I would just state that this last part has not been fully understood—"owing to the fluid nature of this commodity the oil in one tract of land may be extracted by wells on adjoining property." The production of petroleum is very different from any other industry, because every man who is your neighbor there is your financial enemy as well, no matter how you may regard him. It is his business to get all he can out of his well and your business to get all you can out of yours. And without combination, when we overproduce, one farm might be entirely drawn, and in fact when oil is low there are farms which become almost worthless by those adjoining producing much more oil than those on the other side. For instance, a farm which would produce 10 or 15 barrel wells would be good paying property at \$2 and \$2.50 a barrel, but would not pay at 60 or 70 cents a barrel; while a farm adjoining producing 200 barrel wells, pump and flow, would pay. In consequence, the farm in a year or two would be rendered entirely worthless by these small wells. Consequently there has been considerable property actually destroyed by oil being produced below the actual cost per barrel, which we found by actual statistics to be from \$1.15 to \$1.20 last year.

There is another effect. They were beginning to abandon small wells throughout the whole country. When we commenced these negotiations oil was selling in the fifties, and oil could not be produced at that. Bradford was one field where they were pumping a barrel to a barrel and a half to a well. Where these wells were at all isolated they did not pay to pump or even flow, because the quantity was so small. Now, a very large per cent. of such territory would have been abandoned. And there was every prospect for oil going lower. The papers published throughout the oil country were stating that Lima oil could be refined and that it was as good as our tank-oil. This was not the fact, but people believed it, and they were not disposed to hold the oil because they feared the Lima field and other things; and they had begun to sell, and we do not know where the price of oil would have gone if we had not started this movement, and in doing so we have saved perhaps millions of dollars' worth of property. There were many large producers who could have gone into the business of wrecking prices and taking in farms at low prices; but we chose rather to restrict production and bring prices up so that people could retain their property. We are certain that there would have been much bankruptcy in that region had this movement not been made. I will state further in justice to them, that this was not a movement on the part of the Standard Oil people. It was a movement conceived by the producers themselves. They approached the Standard people in regard to this matter, and after long negotiation, which you have here in testimony, the contract, which you also have, was formulated and signed.

Mr. GOWEN. This is not one of my witnesses, but as he is here I wish to ask him one or two questions.

By Mr. GOWEN:

Q. You stated, Mr. Phillips, that the average cost of producing oil was \$1.15 to \$1.20 per barrel, from actual statistics; how do you ascertain that?—A. In this way: We have regular statistics of all the wells that are drilled in the Pennsylvania oil fields prepared once a month. We know the cost of drilling wells in each field. We take the dry wells along with the good ones, as a matter of course, and the failures as well as the successes. Then we know the cost of pumping, torpedoing, cleaning out, and raising this oil, and by this means we ascertain accurately the cost. But there is another factor which is more difficult; that is the increased value of the oil lands over other lands. Our figures did not take that in. We did not take in the bonuses paid for rentals to hold them until such time as we could drill, and I have always maintained that our figures have been below the cost rather than over it.

Q. What I am getting at is this. What amount of interest on the capital invested in sinking a well do you charge annually for each barrel of oil? For instance, suppose it cost \$4,000 to sink a well and that well produces 20 barrels a day. How much of that \$4,000 do you include in this sum that makes up the average cost of \$1.15 per barrel?—A. We ascertain it in this way: We take the cost of drilling the well and putting it in pumping order and then we calculate the interest at 6 per cent. for a year, and then the cost of raising, torpedoing—

Q. Don't go beyond interest, please. You only add the interest?—A. Yes, sir.

Q. And divide that yearly interest by the total number of barrels produced, and that gives you the sum that represents the interest on the investment for each barrel?—A. Yes, sir.

Q. Do you mean to say that you add nothing to represent the capital that becomes eliminated when the wells are abandoned?—A. I do not think our statistics take that into account. The calculation was simply for the year.

Q. Suppose a man spends \$10,000 in drilling a well and his well runs out in one year, do you only add 6 per cent. on the \$10,000?—A. No, sir.

Q. Would you add the whole capital?—A. If it was all lost in a year, of course.

Q. Suppose it is lost in ten years; have you not assumed some yearly proportion of the capital, which you might call depreciation, to be added to the cost of the production of oil yearly?—A. While I looked over the statistics carefully, it has been some time since they were made, and I do not know; but Senator Lee and Senator Hall have both looked over them lately, and I would like to ask them.

The CHAIRMAN. Let us have your view; they are not witnesses. If you can not tell us what the items are which you include in your computation, say so.

The WITNESS. I do not remember.

By Mr. WILSON:

Q. What is the average life of an oil well?—A. Probably six to eight years.

Q. Then, in making your calculation of the cost of producing oil, ought not you to charge up one-sixth or one-eighth of the capital each year?—A. It would seem so.

Q. I want to know whether the total capital lost in unproductive wells—wells which have never amounted to anything—whether that is also included by you in making up the cost of the production of oil?—

A. Yes, sir; it is.

Q. And interest upon it?—A. Yes, sir.

Q. Would it not follow that if you took two isolated cases—on the one side of the line a man spends \$10,000 and gets nothing, and on the other a man spends \$10,000 and gets a great deal—that the average cost would not be anything like the cost of the man who gets a great deal out of his \$10,000, but you would include in that man's average cost a share of the capital, a share of the depreciation of the capital spent in the other man's unproductive well?—A. Yes, sir.

By Mr. GOWEN:

Q. That is what I was getting at. I see, according to the statistics which I will show you directly, that the price of oil at the wells for the last eight years has run from 88 to 94, 85, 78, once \$1.05, 83, 71, and once 66 cents. Am I to infer from what you have heretofore testified that those prices have not paid the producers?—A. For what number of years?

Q. For the last seven or eight years.—A. No, sir. Well, I will state this: The Bradford field in McKean County was a very prolific one. It was almost universally good. You had an idea what you were going to get whenever you located a well. That territory is now almost exhausted. There was a time when a considerable amount of money was made in that field. Oil could be produced at \$1 a barrel in that field from the fact that one engine and boiler would drill a dozen or twenty wells. It was prolific and certain, and cost very little. Instead of having two men to a well, one man would attend to twenty-five or thirty wells, see that they ran and were properly cared for. That time is past. We have no such fields in existence now. We have what are called white-sand fields and they are very uncertain. They exhaust more rapidly; but a large well struck in one of these basins, as we term them there, would weaken that whole basin just as far as it extended, on the principle that if you take a pailful of water out of a pond you reduce the amount of water in the pond just that much. So just as far as that large well extends and is not cut off by hard rock, it is affected by the first well deepened, and when we get down a number of wells they all begin to weaken very rapidly. We have ascertained that oil can not be produced, even when we got these large flowing wells, the average barrel of oil can not be produced at \$1 a barrel.

Q. You mean the producer must have at least \$1 a barrel in order to pay him?—A. It would not pay him, nor will it pay in any part of the oil fields to-day. There was a time when this McKean County field was discovered—and I will state here that that county alone has produced 150,000,000 barrels or something over that, about one-half of all the oil produced in the Pennsylvania fields.

Q. One hundred and fifty million barrels?—A. Yes, sir; if I am correctly informed. Wells are not averaging now more than from one to one and a half barrels to the well; but we have these accumulated stocks to contend with, and now the cost of producing is actually much more than \$1 per barrel.

By Mr. WILSON:

Q. When a well is exhausted is that the end of that well; or will it recover after a rest?—A. Not very often. They sometimes will accumulate a little, but generally when a well is abandoned, it is never resuscitated again. There is just a given amount of oil in this rock, and

when that is exhausted it is done. Of course there is a sleeping process. A well which occupies a lower position will run much longer than one which occupies a higher position, geologically speaking.

Witness dismissed.

The CHAIRMAN. Mr. Flagg, subpoenas have been served upon Clement A. Griscom and Daniel O'Day, who should have been here yesterday. Are those gentlemen included in the understanding I had with you?

Mr. FLAGG. Yes, sir.

Mr. TODD. Griscom spoke to me about it and I said that as he was subpoenaed as one of our men, he was included in that arrangement.

The CHAIRMAN. All I desire to do is to account for his absence. That is all.

Mr. GOWEN. I think it would be well to offer in evidence these statistics on the petroleum industry which I have taken from a book issued by the Standard Oil people. As it comes from the enemy's camp, I presume it will not be objected to.

The statistics are as follows:

Statistics on the petroleum industry.

Year.	Crude oil; barrels of forty-two gallons.				Refined oil. Average price per gallon in barrels, for export at New York.	Total value of petroleum and its products, exported from the United States.—Fiscal year ending June 30.
	Production.	Shipments.	Stock, close of year.	Price at wells.		
					<i>Cents.</i>	
1861.....	2,113,600	1,650,133	Unknown.	\$0.52	61.54	Unknown.
1862.....	3,056,606	3,101,571	do.....	1.00	36.38	Do.
1863.....	2,611,359	3,242,951	do.....	3.11	44.70	Do.
1864.....	2,116,182	1,812,061	do.....	7.45	65.01	\$10,782,690
1865.....	3,497,712	2,100,132	do.....	6.65	58.76	16,563,413
1866.....	3,597,527	3,010,921	do.....	3.76	42.45	24,830,887
1867.....	3,346,896	2,893,210	534,000	2.40	28.41	24,407,642
1868.....	3,715,741	2,482,510	264,805	3.57	29.52	21,810,676
1869.....	4,186,475	4,255,343	340,154	5.64	32.73	31,071,256
1870.....	5,808,046	5,593,168	537,751	3.86	26.35	32,668,960
1871.....	5,278,072	5,667,691	568,858	4.42	24.24	36,894,810
1872.....	6,805,774	5,899,042	*1,174,000	3.96	23.50	34,058,200
1873.....	9,849,508	9,499,775	1,625,157	1.73	17.87	42,050,756
1874.....	11,102,114	8,821,500	3,703,630	1.1825	12.98	41,245,815
1875.....	8,948,749	8,924,838	2,751,718	1.2433	13.00	30,078,569
1876.....	9,142,040	9,583,919	1,926,735	2.5150	19.16	32,915,788
1877.....	13,032,753	12,460,644	2,857,098	2.3875	15.44	61,780,438
1878.....	16,011,425	13,750,050	4,807,590	1.16	10.76	46,574,974
1879.....	20,085,716	16,226,586	8,094,496	.8812	8.08	40,305,240
1880.....	24,788,950	15,839,020	16,606,344	.9410	9.05	36,218,025
1881.....	29,674,458	19,340,021	25,333,411	.8525	8.01	40,315,609
1882.....	25,759,100	22,094,209	34,333,147	.7867	7.39	51,232,706
1883.....	24,385,966	21,967,686	35,715,565	1.0581	8.02	44,913,070
1884.....	23,596,945	24,053,902	36,872,892	.8373	8.15	47,103,248
1885.....	21,600,651	24,029,424	33,836,939	.8848	7.93	50,257,947
1886.....	25,854,822	26,332,445	33,395,885	.7125	7.07	50,196,844
1887.....	21,818,037	26,627,191	28,310,282	.6666	6.72	46,824,933
Total 24 years.....						895,115,260

*Estimated.

Statistics on crude oil production, shipments, and stocks are taken from the Derrick Hand Book published 1884; later statistics on crude oil taken from the published reports of the National Transit Company.

Prices of crude and refined are averages of the published daily market prices.

Value of exports taken from the published reports of the Statistical Bureau of the Treasury Department, Washington, D. C.

The CHAIRMAN. That is all that can be done by the committee to-day. Other witnesses will be here to-morrow.

The committee then adjourned until 11.30 a. m., on Wednesday, April 25, 1888.

WASHINGTON, D. C., April 25, 1888.

The committee met at 12 m.

Present: The chairman, Mr. McKinney, Mr. Grimes, Mr. Bunnell, Mr. Crouse, and Mr. Smith.

TESTIMONY OF B. B. CAMPBELL.

The witness, having been duly sworn by the chairman, testified as follows:

By Mr. GOWEN:

Q. Where do you reside?—A. In Westmoreland County.

Q. Pennsylvania?—A. Yes, sir.

Q. What is your business?—A. Refining oil.

Q. You were at one time connected with the production of oil, were you not?—A. Yes, sir; and I am yet to a small extent.

Q. How long have you been connected with the production of oil?—A. Since 1859.

Q. Can you remember the time at which the so-called South Improvement Company was about to be put into existence?—A. I could not tell you the date.

Q. You remember the circumstance?—A. I remember the circumstance very well.

Q. Going back to about the year 1870, do you remember who at that time controlled the oil trade; or did any particular interest control it at that time?—A. There were a number of refiners at that time, as far as my recollection holds.

Q. A number of independent refiners?—A. In Cleveland, Pittsburgh, New York, and Philadelphia, principally.

Q. How many independent refiners at that time were about Pittsburgh, do you suppose—in western Pennsylvania?—A. A very large number; I could not tell exactly.

Q. As many as fifty?—A. I should think so.

Q. How many were in the neighborhood of Philadelphia at that time, do you remember?—A. I do not remember.

Q. Five or six, were there not?—A. I think there were that many, but I am not certain.

Q. How many were there in New York?—A. More than that.

Q. How large at that time, in that early history of the trade, was the interest of those who now represent the Standard Oil Company or Standard Oil Trust? What extent of interest had they in refining?—A. I could not give you that.

Q. Had they much at that time?—A. Not much larger interest, I judge, than some of their competitors.

Q. Did that Standard oil interest at that time form any large extent of the production of oil?—A. Not to my knowledge.

Q. What extent of the refining capacity of the country is now controlled by the Standard Oil Trust and its affiliated interests, do you suppose?—A. That is pretty hard to answer. I am not very familiar with the refining interest on the creek at present. There are more there than I have knowledge of, but I suppose there are 15 per cent.

Q. Of independent refiners?—A. Yes, sir.

Q. Outside of the Standard?—A. Yes, sir; entirely outside of the Standard; and then there is the Tide-water Refining Company.

Q. Do you think there is in existence 15 per cent. of independent refiners outside of the Standard?—A. Outside of the Standard and the Tide-water; but I am not a very good statistician.

Q. Do you remember the condition of things in the country, in the oil region, at the time it first became known that what is called the South Improvement Company was about to be started?—A. That was shortly before I was much in the oil country—before I had any interest in the Pennsylvania oil region. I was operating before that in West Virginia. It was about 1870 or 1871 that I began to operate in Pennsylvania, and before that time I did not keep myself posted.

Q. This South Improvement Company contract was made in 1872; did you ever see that contract?—A. I saw what professed to be copies of it published in the papers at the time.

Q. You were familiar with it?—A. Yes, sir.

Q. Will you glance your eye over this printed book [handing to witness book entitled "History of the Rise and Fall of the South Improvement Company"], on page 97, and say whether in your judgment that is a copy of the contract between the Pennsylvania Railroad Company and the South Improvement Company?—A. I believe that to be what we generally considered the contract; but I never saw the contract.

Q. You never saw the original?—A. No, sir.

Q. Where did you first hear of the existence of this contract between the Pennsylvania Railroad Company and the South Improvement Company. Can you remember where you first heard of its existence?—A. No, sir; I can not—through the papers, I suppose.

Q. It became public property, did it not?—A. Yes, sir.

Q. State whether or not there was a great feeling of indignation throughout the country against it on the part of producers of oil.—A. There was.

Q. State from your recollection of the contract, and what you heard at the time, whether there was any agreement on the part of the Pennsylvania Railroad which was afterwards acquiesced in by other companies to give the South Improvement Company the practical monopoly of the oil trade.—A. I believed it to be impossible for any refinery to be run in opposition to that company, receiving the rebates named in the contract.

Q. State whether or not those rebates they were to get were not to amount to as much as \$1 a barrel or higher.—A. That is my understanding.

Q. Would it have been possible for any individual refiner whatever to have continued in business if a system of transportation of that kind had gone into effect?—A. I do not think so.

Q. State whether you know as a matter of fact that the railroad companies receded from that contract and agreed to give it up.—A. Yes, sir; it was so understood.

Q. Did they not also at that time in writing, and as a result of this feeling of indignation against them, pledge themselves to carry oil for everybody at the same rate?—A. I believe so.

Q. Have you any recollection or knowledge of the existence or character of the written pledge then made by the railroad companies to treat everybody alike on the subject of the transportation of oil?—A. I could not describe it. It was my understanding that there was such a pledge, but I took no part in that controversy, and therefore there are a great many more competent witnesses than I am who took part in the fight.

Q. I might refresh your recollection, Mr. Campbell, as to these circumstances by handing you a book called "An Appeal to the Executive of Pennsylvania," an address to Governor John F. Hartranft, which, I think, was issued by you and Mr. Patterson as a committee representing the producers [the book referred to was handed to the witness].—A. Yes, sir; I am aware of this paper. It was prepared and presented to Governor Hartranft in compliance with his request. The first appeal was a verbal one, made by a committee of the Producers' Union, of which I was then president.

Q. At the time this paper was prepared, and when you signed it, the facts connected with the history of the oil trade referred to in the paper were then fresh in your recollection, were they not?—A. Yes, sir; and I believed them true.

Q. I now call your attention to page 19 of this pamphlet, and show you what purports to be an agreement with the railroads in the petroleum trade, executed 25th of March, 1872, signed by the various officers of the railroad companies and by several gentlemen representing the oil trade, whose names you will remember, and ask you whether that, to the best of your recollection, was a copy of that paper?—A. We certainly believed it to be so when we furnished it. This paper was prepared by our counsel at the request of Governor Hartranft after a verbal interview with him, and made the basis of action by the attorney-general before the supreme court.

Q. Now, leaving the time at which this trouble and apparent settlement of the difficulty arising from the contract with the South Improvement Company took place and coming down to the year 1879, will you state what was the condition of the oil trade as affecting the individual producers and refiners on the one part and the Standard Oil Company on the other between the years 1872 and 1879? In other words, who in that time secured the control of the oil trade?—A. We believed it to be the parties who to-day are practically the Standard Oil Company.

Q. Were they not the parties who were also the South Improvement Company at that date?—A. Many of them were included in that. There were some other parties. I do not believe the parties were exactly the same.

Q. But were not the people who now constitute the Standard Oil Company the same people who, with others, were associated in the ownership of the South Improvement Company?—A. Yes, sir.

Q. What became of the individual refiners of oil who were in competition with the Standard from the year 1872 or 1879, or most of them?—A. Most of them failed. Many of them ran in connection with the Empire Line; no, that was subsequently; almost all the independent refiners, I think, failed.

Q. Did the Standard refiners fail?—A. No, sir.

Q. They were very successful, were they not?—A. They were believed to be so.

Q. Have you any reason to suppose from your knowledge of the trade that those independent refiners had any less business capacity or knowledge of their trade than those who managed the Standard?—A. I think they were fully their equals.

Q. Is it not your experience in business that an individual man attending to his own private interests can get better results at a given manufacturing establishment than a corporation can?—A. I believe it to be so; because he gives it his personal attention, which is certainly better than employed help.

Q. State whether or not up to and in 1875 you occupied the position

of chairman of the Producers' Union, or whatever it was called.—A. I did, sir.

Q. Is that the proper name?—A. That is the proper name.

Q. Now state, in your own terms, what efforts were made by you and the gentlemen associated with you to discover the causes which led to the bankruptcy and failure of all the individual refiners on the one part and the prosperity and control of the trade on the part of the Standard Oil Company and its affiliated industries.—A. We believed that they had advantages in rates of freight, in control of cars, and facilities for doing business.

Q. State what proceedings, legally or otherwise, were undertaken by you, or by the community, or by your Producers' Union in order to ferret out and get at the facts of the case.—A. With the committee appointed by the Union we called on Governor Hartranft, governor of Pennsylvania at the time. We laid the case before him, and asserted that we believed the railroad companies of Pennsylvania were affording facilities to one party that others could not receive, and thereby preventing competition. He requested us to go home and prepare, in the form of a memorial, the facts we had already stated, the result of which was that paper which was prepared by our counsel. He then directed his attorney general to commence proceedings before the supreme court of Pennsylvania against the Pennsylvania Railroad and the western connections of the New York and Erie and the New York Central—I forget the names of the roads, but they were western connections—asking for an injunction to prevent them giving advantages to one shipper over another either in rates of freight or distribution of cars. Under that, application was made to the supreme court and entertained and a master appointed.

Q. Do you remember the name of the master?—A. J. B. Sweitzer, Before him a very large amount of testimony was taken which was printed and a copy of which you have.

Q. I hand you now these two papers, marked "Commonwealth of Pennsylvania against the Pennsylvania Railroad, J. B. Sweitzer, master examiner," in two books, ask you to look at them, and state whether they represent the testimony which was taken in these cases at that time.

(The books referred to were handed to the witness.)

A. Yes, sir.

Q. Were you present when most of this testimony was taken?—A. A good deal of it.

Q. You were yourself examined as a witness?—A. I was.

Q. Will you state whether the testimony you gave on that occasion was true and correct?—A. I believed it to be true and correct, and I have no reason to change my opinion now.

Q. And your knowledge of the subject was better at that time in consequence of the danger of forgetting since?—A. I was in the middle of the fight then.

Q. Did you discover in any manner, through that testimony, what the extent of the rebate or allowances was that were given by the Pennsylvania Railroad Company to the Standard Company on oil?—A. We discovered—of course there is no use repeating, as that book shows it all—we produced statements of actual business, and they are much more correct than my memory, showing that on shipments from Pittsburgh to Philadelphia the Standard received a rebate of more than half the freight, no matter who was the shipper.

Q. When you speak of the Standard in your testimony you include in

the designation of Standard all the corporations or interests who were affiliated with them and doing business with them?—A. Yes, sir.

Q. Do you remember whether it appeared at that time that there was a concern called the American Transfer Company?—A. There was; yes, sir.

Q. That got a rebate of 22½ cents on all the oil, no matter who shipped it?—A. That, I think, appears in the testimony; yes, sir.

Q. You heard the testimony of Mr. Cassatt, did you not, who was examined as a witness at that time under oath?—A. I did.

Q. State who he was?—A. He was the second or third vice-president of the Pennsylvania Railroad at that time; he was in active charge of the oil transportation of the company.

Q. If you can recollect having heard him admit what these rates of drawback were will you tell us as nearly as you can what they were, first on crude and then on refined oil?—A. I prefer to refer to the testimony, because I have not for years thought of those things.

Q. I will call your attention to page 90 of that book, and ask you to look at that part marked in blue.—A. I remember that testimony.

Q. What is it; what rebate was given to the American Transfer Company?—A. Twenty-two and one-half cents per barrel.

Q. No matter whether shipped by them or by others?—A. It made no difference.

Q. State whether the American Transfer Company was one of the companies affiliated with the Standard.—A. We believed it to be.

Q. That drawback of 22½ cents was practically paid to them not only on their own shipments but on the shipments of everybody else?—A. So it was understood, and I think it so appeared in the testimony.

Q. Now look at page 91 and see what drawback was allowed them on refined oil as compared with other shippers.—A. Mr. Cassatt states there was an allowance of 22½ cents to the American Transfer Company, 10 per cent. to the Standard Oil Company, according to a letter referred to, and an additional allowance of 15 cents, making 51 cents reduction, making a net rate of 88½ cents.

Q. On crude?—A. No; on refined.

Q. That was a net rate of 88½ cents to the Standard. What was the rate to other people?—A. One dollar and forty cents.

Q. Now, if you will turn to page 95, where Mr. Cassatt has testified, commencing at the bottom of page 94, you can just tell us what the general rates were to the public on crude oil and what the rate was to the Standard Oil Company outside of the 22½ cents rebate which was additional.—A. Mr. Cassatt states there was an additional rebate of—

Q. State the rate to the public first.—A. One dollar and fifteen cents.

Q. And \$1.40, is it not?—A. Yes, sir; those were the rates given; I really am not familiar with them from memory.

Q. Just see if one is not the rate from the Bradford region and the other from the lower region.—A. Yes, sir.

Q. As compared with that \$1.15 and \$1.40 rate, which the public from the two regions respectively had to pay, what rate did the Standard Oil Company pay, according to Mr. Cassatt's testimony?—A. Mr. Cassatt states that 80 cents net was the rate to the Standard, and to all others \$1.90, less 44½ cents.

Q. That is on refined, is it not?—A. Yes, sir; 26½ cents off from the \$1.15 rate.

Q. That is crude?—A. Yes, sir.

Q. The Standard got 26½ off the \$1.15 rate, and how much did they get off the \$1.40 rate?—A. Twenty-nine cents off the \$1.40 rate.

Q. That was on crude?—A. It is so stated.

Q. And that was in addition to the 22½ cents which was paid to the American Transfer Company, was it not?—A. So I understand.

Q. Now, then, give us the answer on refined oil.—A. The statement was that the freight was 80 cents net to the Standard Oil Company.

Q. And how much to the public?—A. One dollar and forty-four and one-half cents.

Q. That, therefore, would have made on refined oil a rate of 80 cents to the Standard as against \$1.44½ to the public?—A. Yes, sir.

Q. That is a rebate of 64½ cents a barrel, is it not?—A. Yes, sir.

Q. Just look at those figures and see what, including the 22½ cents drawback that went to the American Transfer Company, was the net rate to the Standard Oil Company on crude petroleum from the upper regions?—A. On the \$1.15 rate the net rate would be 66 cents.

Q. That is, the Standard from the upper region paid 66 cents while the public paid \$1.15.—A. Yes, sir.

Q. Now, from the lower region—the \$1.40 rate—what was the net rate?—A. Eighty-eight and one-half cents.

Q. That is what the Standard paid.—A. Yes, sir; as against \$1.40.

Q. The difference, then, between 66 cents and \$1.15 is 49 cents, is it not?—A. Yes, sir.

Q. And as between 88½ cents and \$1.40 is 51½ cents?—A. Yes, sir.

Q. In the one case the rebate was 49 cents and in the other 51½ cents, was it not?—A. According to those figures of Mr. Cassatt; yes, sir.

Q. And on refined oils the difference was between 80 cents and \$1.44½, which makes a rebate of 64½ cents?—A. Yes, sir.

Q. And that does not take into consideration anything they got out of the 22½ cents that was paid to them on other people's oil, does it?—A. I should judge not, sir.

Q. Now, then, if other people shipped at the time exactly the same amount as the Standard Oil Company shipped, that company would then have gotten 22½ cents additional on every barrel shipped?—A. That was my understanding. I believe that was the effect of the testimony.

Q. If other people shipped only half as much as the Standard, then the 22½ cents drawback or payment which they received on oil shipped by other people would have amounted to 11½ cents on their shipments?—A. Yes, sir.

Q. And those respective amounts must be added to these other amounts in order to see what was the actual drawback?—A. I believe so.

Q. I will hand you some statistics offered before the committee yesterday, to refresh your recollection. Can you from them give us a rough estimate of about what the total production of oil was, say, from 1872 to 1880?—A. I could not, from my own knowledge.

Q. Look at these tables.—A. (Having examined tables.) These have been very carefully prepared by parties who have made it their business, and I have no question of their correctness.

Q. I would like to get on the minutes now about the exact amount. State whether the production of oil from 1872 to 1880, inclusive, was not nearly 120,000,000 barrels.—A. About 120,000,000; a little over that, I judge.

Q. Now, if these rebates on crude oil, 51–49 cents, which would average about half a dollar per barrel, had applied to all that oil it would have amounted to \$60,000,000, would it not, in that time?—A. It did not apply to all that oil.

Q. But I say if it had.—A. Yes, sir.

Q. Did not the 22½ cents apply to all the oil that was shipped during the time it was in operation?—A. I can not speak further than the Eastern shipment. The home trade, the consumption in the region, and the Western shipments would probably have to be deducted from that.

Q. Would you kindly tell us how much you suppose, out of the 120,000,000, went to the home trade and to Western shipments?—A. I am hardly competent to answer the question.

Q. Do you think as much as a third?—A. No, sir.

Q. Was it a quarter?—A. That is probably it; but I do not feel competent to answer that question. There are many people more competent to answer that than I am.

Q. You know as a general thing that nearly two-thirds of the oil refined is exported?—A. I believe so.

Q. And there is also considerable consumption in the eastern part of America of refined oil?—A. Certainly.

Q. When you and your associates discovered the existence of these rebates and allowances which have been made to the Standard Oil Company, had you then, as business men, any longer any doubt what was the cause of the bankruptcy of the individual refiners?—A. No, sir.

Q. Is it possible, or would it have been possible, for any refiner or producer to withstand competition of that kind?—A. Not unless it would be some small refiner who did a local business.

Q. Who would not have to come into competition with them?—A. Yes, sir.

Q. Was there any reason that you know of why eight or ten gentlemen should be selected by a common carrier and made the recipients of bounty to the extent of \$50,000,000 or \$60,000,000, while another and a more numerous class were thrown into bankruptcy and ruin?—A. I have never been a railroad man. Doubtless the argument used was that these parties tendered to the railroad a larger amount of business.

Q. Could they have gotten that large amount of business without the rebate?—A. I think not.

Q. If you had been given a rebate of even 20 cents a barrel over every competitor could you not have secured the entire traffic?—A. They would have had a very comfortable business.

Q. But do you not think that a rebate of 20 cents could have turned the trade to you?—A. If a party chose to sell at what would have been the actual cost to his competitor he would still have a very good business at that rebate.

Q. But what amount of rebate do you think would have been sufficient to turn the oil trade from one party to another?—A. That is a question that is almost impossible to answer, because it depends upon whether the party receiving the rebate is willing to gauge his profits merely by his rebate. He might want more, and therefore parties paying that might still live. But if the war was carried down to the bottom one could live at the 20 cents rebate when all others would die.

Q. Even 20 cents rebate, then, would turn the scale if in favor of the party who got it?—A. I think so.

Q. Now, then, if there had been a desire on the part of the Pennsylvania Railroad to break all you gentlemen and create a race of millionaires so as to lay the foundation for a future order of nobility in this country, do you not think they could have done it cheaper than at 49 and 50 cents a barrel?—A. Mr. Cassatt, as I understood his testimony, put it on the ground that they paid the rebate because they had to. A party would come and say, if you do this, well and good; if not, others

will do the business. I am not a railroad man and that is a problem to which I have not given much attention.

Q. Is it not the duty of a common carrier to treat everybody alike ?—A. I have thought so and believed so.

Q. You believed so at one time ?—A. Yes, sir.

Q. Has your faith in that principle been shaken ?—A. Not the slightest.

Q. Very well; I only mention the Pennsylvania Railroad because that is the only one about which there has been any testimony in this case. I will make it broader and apply it to all the other companies, assuming in advance of proof that such condition of things existed also with them. Do you not think that the railroads could have turned the whole business over to them by making a less rebate than they actually did make ?—A. I am not a railroad man and therefore that is not a question I could answer. I doubt not they got all they could. I think it was a case of force.

Q. Can you see any reason, then, why they made other people pay more ? If they could not get more than this rate of 80 or 88 cents from the Standard, why did they make other people pay more ?—A. I never knew a railroad that paid rebates for the love of it. I think they got all they could.

Q. Do you not think it would have been a good thing for you and the rest of the gentlemen whom you have referred to as having been broken up if you could also have participated in these favors ?—A. Unquestionably.

Q. You would not have refused to take it ?—A. Not if it was made an equal rate.

Q. Do not you think that the fact that the rates were unequal and that you had the heavy end of them to bear was what caused the bankruptcy amongst these individual refiners ?—A. I have no question that it was the unequal rates. Parties receiving rebates like those could sell and make profits at prices it was impossible for refiners paying the open rates to meet without bankruptcy.

Q. Have you any doubt whatever that it was the rebate and allowance which enabled the Standard Oil Company to obtain the control of the oil trade which they now possess ?—A. I have always considered it so.

Q. Have you ever known any other reason that enabled it to do it ?—A. They have been industrious and have attended to their business, and are good merchants and are good manufacturers ; but there are others whom I think are quite as good as they are.

Q. Were not the others just as good ?—A. Many of them.

Q. Many of them better ?—A. I would not say that.

Q. State whether or not you do not know also that pending and during these times the Standard was saddled with an enormous or very large cost, resulting from the purchase of competitors and subsidizing of other gentlemen who had been connected with the refining industries.—A. I have no knowledge of those facts other than common rumor.

Q. Were you born in this country ?—A. Yes, sir.

Q. You are an American citizen ?—A. I was born in Allegheny County.

Q. Did it ever strike you as somewhat remarkable that a common carrier, whose obligation was to treat everybody alike, should have the right himself to determine which particular gentleman should get a favored rate ?—A. I do not quite understand your question.

Q. Did it ever strike you as being rather remarkable that the common carrier—namely, the railroad company—whose obligation it was to treat

everybody alike, should have the right, at its own will, to make one class of people rich and to make another class poor?—A. I think they have no such right.

Q. Did not you somewhat at that time lose a little faith in the protecting care of your own country, that did not take care of you and prevent such a state of things existing?—A. Unfortunately there is enough law in the State of Pennsylvania to prevent, if you could have the law enforced.

Q. That is what I am coming to. In addition to your application to the governor, who was the chief magistrate, and who responded to your request—in addition to that, what effort did you gentlemen take to secure immunity from such a condition of affairs as this?—A. We pursued these investigations until the facts alleged in the bill were proved as against the Pennsylvania Railroad Company. We failed utterly as to any of the other railroad companies named in the bills.

Q. Why?—A. Every officer we put on the stand stated he was not aware of those facts. The officer who was aware and had charge of the books was outside the jurisdiction of the State. We failed utterly as against every railroad company except the Pennsylvania Railroad Company. Our attorneys acted merely as assistants to the attorney-general, and he refused to allow proceedings to be taken against the Pennsylvania road unless we could prove our case against the others. He was not willing that company should be enjoined and the rest go free.

Q. All the proceedings resulted in, then, was the proof of the fact, without the remedy which should have followed that state of things?—A. The cases were never presented to the supreme court.

Q. But it appeared in the case of the Pennsylvania Railroad Company that their officer, Mr. Cassatt, had the courage and manliness to tell the truth. He never equivocated?—A. His testimony is very clear and very correct, and, in addition to that, we had the statement of the accounting officers.

Q. Did he not in that connection give as a reason for the discrimination in favor of the Standard that other railroad companies were doing it?—A. So I understood. He pleaded that there was a necessity on their part to do the same as the other companies were doing.

Q. And did not he justify the act of his company on the ground that other companies would take the business at that or a lower rate if he did not?—A. That was it.

Q. Now, then, if Mr. Cassatt's testimony and the declaration of the Pennsylvania Railroad Company were accepted as proof of the existence of this state of things, can you tell why the attorney-general did not accept as equally true his statement that the other companies were also engaged in it?—A. I do not think that if Mr. Cassatt had been put on the stand he could have produced legal evidence of that. He unquestionably knew of the existence of those things. We tried our best, but could not prove by what was considered competent evidence the other cases. Their books and officers who knew were outside of the jurisdiction of the State.

Q. The traffic in oil has grown to be over 25,000,000 of barrels a year, has it not; the production I mean? It has been considerably beyond that at some times; once 35,000,000. Just look at this book, please, and inform the committee what the highest production has been.

(The book referred to was handed to the witness.)

The WITNESS. The maximum production was in 1882 35,789,190 from the Pennsylvania and New York fields.

Q. Now, for the present production of oil in the United States, prac-

tically how many buyers are there; I mean how many buyers who have sufficient business to affect the price?

Mr. CROUSE. Crude or refined?

Mr. GOWAN. Crude.

The WITNESS. The buyers of certificates of crude oil can not be numbered.

Q. You mean those dealing in it on the exchanges?—A. Yes, sir. The actual buyers of the oil are the Standard Company and its refineries, and the exporters of crude.

Q. The exporters of crude are those who buy crude oil for the purpose of sending it abroad as crude to be refined there?—A. Yes, sir.

Q. But of the amount that is purchased in this country for refinery purposes is it not in your judgment safe to say that 80 or 85 per cent. of it is bought for or on account of the Standard Oil Company and its affiliated corporations and interests?—A. I should judge those figures to be correct.

Q. Do you not think it would be better for producers—the people who own the oil—if they could have fifty people competing for its purchase than to have to sell 80 per cent. to one purchaser?—A. I have always so contended.

Q. And have seen no reason to change your mind?—A. No, sir.

Q. Now, Mr. Campbell, will you go back in memory to what was the advent of the Empire Line as a transporter of oil on the Pennsylvania Railroad. You remember that circumstance, do you not?—A. I can not give the date of the advent of that company.

Q. But you can remember the fact?—A. They were in existence on the creek when I first began to do business in the oil country.

Q. Oil Creek?—A. Yes, sir.

Q. State whether or not for a year, or probably more, almost all the oil transported over the Pennsylvania Railroad was transported by the Empire Line. Do you know of that fact?—A. I believe it to be so.

Q. At that time did you ever hear, or was it ever charged, that when the Empire Line was transporting oil there were any rebates or drawbacks given to anybody?—A. The evidence of rebates extends through some of those years you refer to.

Q. Do they?—A. Yes, sir.

Q. Do you remember—I do not mean the exact date—but do you remember the fact that the Empire Line ceased to be transporters of oil on the Pennsylvania Railroad?—A. I wish to correct my former answer. I think I was mistaken about that. I did not understand you. While the Empire Line did this business I knew of no rebates.

Q. I thought so. Did not the producers gladly assent to send them the traffic over their Line?—A. As far as I was concerned I gave them all my business.

Q. And all the others too?—Yes, sir; they had a very large business.

Q. State whether or not the Empire Line was not the line of transportation that moved this traffic over the Pennsylvania Railroad.—A. It was, sir.

Q. And during the time it was so engaged you knew of no drawbacks?—A. The business was perfectly satisfactory.

Q. Did not the Standard Oil Company unite with the Pennsylvania Railroad in buying out the Empire Line and purchasing the right of it as the transporters?—A. I believe so.

Q. Did not the Standard Oil Company purchase the refineries of the Empire Line, and did they not advance some money to enable the Penn-

sylvania Railroad to purchase the rolling-stock of the Empire Line?—A. I so believed at the time. As to the refineries I can not speak so definitely. The Empire Line supplied a great many refineries which they did not own. For instance, they supplied all the parties who were then known as the outside refiners of New York.

Q. They were supplied by the Empire Line?—A. Yes, sir.

Q. The Empire Line supplied their own refineries as well as supplying the refineries of individual refiners?—Yes, sir.

Q. And so far as you knew or heard there was no complaint on the part of any one except the Standard Oil Company that the Empire line was treating people unfairly?—A. At that time I was only familiar with the producing part of the business. As a producer doing business with the Empire line I never had reason to complain. When they first came to the lower region where I was I grumbled at the new system of red tape; but I soon found that red tape meant accuracy and honesty and I quit grumbling at it.

Q. And when the Standard Oil Company got rid of the Empire Line as a transporter of oil, and shipped it over the Pennsylvania Railroad direct without the intervention of the Empire line, you did not have the same show as you had before, did you?—A. I believe that the trouble of the refiners commenced then, and therefore we lost a number of independent buyers. In that way the market for crude was interfered with. At that time my own business was a producer of crude oil.

Q. Do you know whether or not one of the reasons given by the Standard Oil Company for their opposition to the Empire line as a transporter was that that line was also engaged in the refining of oil, and therefore was a competitor?—A. It was so then currently and publicly alleged. Of course, I could not bring back the accusation to any one person.

Q. In other words they thought it was not fair or honorable for a rival of theirs in the refinery business to be engaged in the business of transporting oil as well; and they did not want to rely upon such an interest as the transporter of their own supply. Was not that the reason they publicly gave?—A. That was it in substance.

Q. Since the Standard Oil Company secured the control of this large amount of oil that you speak of, state whether or not they continued to ship it until to-day as they did before over the lines of the railroad, or whether they constructed pipe lines to carry it to tide-water on their own account.—A. To-day and since the completion of their pipe lines the great bulk of the oil used by the Standard Oil Company in its refineries is transported through their own pipe lines, and their interest is that of transporter instead of consumer.

Q. Therefore the Standard Oil Company, which controls, we will say, about 80 per cent. of the refining industry of this country, is by means of pipe lines a large transporter of oil as well; is it not?—A. Very large.

Q. To what extent in proportion to the whole amount do you suppose the pipe lines carry?—A. It would be impossible for me to tell. The pipe-line officers could.

Q. Is it two-thirds or three-fourths, do you suppose, of the crude oil going eastward?—A. It is a very large proportion, but I do not want to give estimates when the committee can get it from others to a barrel.

Q. The Standard Oil Company, by reason of getting rid of the Empire line as a competitor, which they justified on the ground that it was improper for a refiner to be a transporter, is to-day to a consider-

ably greater extent in the same position which they complained of the Empire Line for being in?—A. They transport to a great measure the oil they refine themselves, and, of course occupy the same plane.

Q. When a producer in the oil field gives his oil to the Standard pipe line, we will say, what does he receive as evidence of that?—A. He receives a credit balance on the books of the pipe-line company.

Q. And when that amounts to a certain number of barrels?—A. When it amounts to a thousand barrels he can, if he wishes, get a certificate. He can, however, at any time sell the credit balance to the pipe-line company at the price of the day.

Q. And when the amount of his oil that has gone into the pipe-line of the Standard Oil Company reaches a thousand barrels he is entitled to what may be called a negotiable certificate?—A. Yes, sir.

Q. These certificates are evidences of ownership in the oil which pass by delivery to the purchaser?—A. Yes, sir.

Q. The man who buys a thousand-barrel certificate of oil if he wants to use it in the East can only receive the oil through the pipe line of the Standard Oil Company if he has taken their certificate; is not that so?—A. You mean if he wishes to receive the oil for shipment?

Q. Yes.—A. The course would be, then he would deposit the certificate, pay the pipeage on it and it would then be passed to the credit of the shipping account and they would deliver that oil at any of the known loading racks they had in the oil regions.

Q. He can only get it out by means of their machinery and appliances?—A. Not necessarily; if you place cars at the rack you can get it out yourself.

Q. But when he delivers a thousand barrels of oil to their local lines he has to take it out wherever there is a delivery place on their lines. He must depend on them. Therefore that man occupies the same position to them, if he is a refiner, as the Standard Oil Company in its capacity as a refiner occupied to the Empire Line when they were transporters?—A. That is if you call the pipe line the Standard Oil Company.

Q. Of course.—A. Of course, it is a separate corporation, but where the ultimate ownership is I do not know.

Q. Is not the National Transit Company affiliated to the Standard Oil Company?—A. It is so believed; that is, that the Standard Oil Company is the largest stock-holder in it.

Q. To you gentlemen, dealing with those people in that region, are not their relations well known and understood; is not the National Transit Company known and understood as one of the companies affiliated with the Standard?—A. It is so believed to be. The Standard is supposed to be the largest owner of it.

Q. Who signs the certificates which you get for each thousand barrels of oil?—A. I will have to refer to Mr. Kirk, to have to answer to that.

Mr. GOWEN. Never, mind; we will prove that later.

Q. Have you any connection with the Standard Oil Company in any manner?—A. No, sir.

By Mr. SMITH:

Q. What distance is the oil carried at a charge of \$1.40 per barrel?—A. That was the old price. It is not the present rate of price.

Q. What was the distance at that time?—A. I believe it was from Pittsburgh to Philadelphia.

Q. How many miles is that?—A. Three hundred and fifty-three miles.

By Mr. GOWEN:

Q. Three hundred and fifty-five miles, isn't it?—A. Three hundred and fifty-three.

By Mr. SMITH:

Q. Do you think that that was a very high charge for carrying a barrel of oil that distance?—A. I think so now.

Q. What would be a fair charge?—A. The present rate is 45 cents.

Q. Do you think it could be carried for less?—A. I say the present rate is 45 cents. It has been carried as low as 30 cents.

Q. You say it has been carried as low as 30 cents?—A. Yes, sir.

By Mr. GOWEN:

Q. How many barrels of crude oil are counted to a ton?—A. There are 315 pounds to the barrel.

Q. Practically about 7 barrels to a ton?—A. Yes, sir.

By Mr. SMITH:

Q. What was the name of the State's attorney at that time that you spoke of in your testimony who was to prosecute the Pennsylvania and other railroads?—A. Mr. Lear was the attorney-general; but this testimony was taken entirely by the counsel employed by the Producers' Association. Do you wish to know their names?

Q. No; I do not care for that.—A. Well, Attorney-General Lear—who has died lately—I think he was for Governor Hartranft, and during the latter part of the proceedings Mr. Palmer was the attorney-general for Governor Hoyt.

By Mr. GOWEN:

Q. There was a change of administration just about this time?—A. Yes, sir.

By Mr. SMITH:

Q. The railroad officials were called in and their testimony taken?—A. Yes, sir.

Q. Didn't they try to shift the load from one official to another, claiming that they were not posted on this matter?—A. The testimony will show very clearly. We produced statements of account rendered from one railroad to another, which showed the monthly business, which are contained in those books. It showed the gross statement of business and the amount of rebates paid on it.

Q. Weren't the railroad officials very short-minded and short-memoried at that time?—A. As far as the Pennsylvania Railroad was concerned, I have no doubt the entire truth was told as shown in the testimony—every circumstance.

By Mr. GOWEN:

Q. You had in your possession at that time and secured by a subpoena the documentary evidence that would show exactly at what rates this oil was carried, had you not?—A. Yes, sir. Of course our attorneys acted merely as assistants of the attorney-general, and were governed by him. At the outset they required us to prove a prima facie case without calling on the officials of the railroad to do it. After a great deal of trouble we succeeded in doing that. We produced a witness with the actual statement of the month's business, which you will find in that book. From that time the matter was easy.

By Mr. SMITH :

Q. Was the right of way that is now occupied by the pipe lines procured by purchase from private property, or by condemnation under the right of eminent domain ?—A. Generally by purchase, I think, sir.

Q. Can they use the right of eminent domain ?—A. Under our new pipe bill it was claimed they had the right of eminent domain.

Q. When was that pipe bill or act enforced or passed ?—A. Within two or three years, I think. Of course, it is a matter of record. It is in daily use both for gas and oil.

Q. That act was intended not only for oil, but also for gas ?—A. Yes, sir. The original lines, I think—both the Tide-water and the Standard lines—the rights of way were purchased.

Q. Could you state whether the Standard Oil Trust is also engaged in gas-piping ?—A. Not to my knowledge, sir. Many of the members of the company are engaged in it, but not the Standard Oil Company, to my knowledge.

Mr. Gowen at this point read to the committee extracts from the former testimony of Mr. Campbell and of Mr. Cassatt, as follows :

B. B. CAMPBELL was sworn in the case of *The Commonwealth v. Pennsylvania Railroad Company*.

Direct examination by Mr. ACHESON :

Q. Where do you reside ?—A. Westmoreland County, 19 miles from Pittsburgh.

Q. Are you engaged in the oil-producing business ?—A. I am.

Q. How long have you been connected with that business ?—A. I commenced boring for oil in 1860 in West Virginia, and continued up until the breaking out of the rebellion. Our men were driven away and our wells destroyed.

Q. You have continued in it since ?—A. As soon as the war was over I returned to West Virginia and commenced producing there; in 1871 I commenced operations at Parker, and since that time have been uninterruptedly in the business of producing oil.

Q. State whether you have had large experience in the matter of producing oil and its transportation to market.—A. I am to-day the unfortunate owner of interests in nearly a hundred pumping wells; I have shipped all my own production, and at least I have produced over half a million barrels of oil, which were shipped over the Pennsylvania road through its agent, the Empire line, with which I did my exclusive business as long as they continued in the business.

Q. Since the Pennsylvania Railroad purchased the Empire Transportation Line and undertook the business of transporting oil by what is known as the Green line, state whether your oil has gone by that route to any extent.—A. I have been compelled since the purchase of the Empire line by the United Pipe Lines to do my business with the United Pipe Lines, the only corporation in the lower country doing an extensive pipe business. What they do with the oil, I can't tell; it is no longer in my control, and I no longer direct the shipments over the Pennsylvania road, the Allegheny Valley, or any other sources.

Mr. HAMPTON requests Mr. Acheson to state the purpose of the evidence.

Mr. ACHESON. I propose to examine the witness, Mr. Campbell, in respect to the illegal combination charged in the bill of *The Commonwealth v. The Pennsylvania Railroad Company*, and to show acts done by the Pennsylvania Railroad Company or parties in the combination in furtherance thereof.

(Defendant's counsel objects to any evidence except such as relates directly to such participation, if any, as the Pennsylvania Railroad Company may have had in that combination, and objects to any evidence as to acts, conduct, or declaration of other parties named in the other bills filed in this case.)

Q. Explain to the master why it is not in your control in respect to transportation ? (Objected to, except in so far as the Pennsylvania Railroad Company is directly concerned in the subject-matter, and as incompetent and irrelevant.)

A. The United Pipe Lines, which are to-day the only pipe lines connected with my wells, from their main line connect at each tank that the producer places at his well; when the tank is full the gauger of the United Pipe Lines measures the oil in the tank, gives a ticket to the pumper at the well stating the depth of the oil at which the run is commenced to the tank and the depth of the oil in the tank after the run is completed; in the office of the United Pipe Lines there are gauges for every tank with which they have connections; there the run is calculated, and the number of barrels placed to the credit of the particular well from which the run is made. As far as my

own business is concerned (I will not speak of the other producers), I do not ship the oil; when I wish to sell I either give an order on the pipe line for the amount I wish to sell or I draw a certificate for such amount of oil as I want in even thousand barrels; certificates not being issued except in thousand barrel amounts. These certificates are transferable from hand to hand and are considered negotiable. When I part with them I part with my interest in the oil; if bought by a speculator, he merely carries the oil, paying the storage or tankage; if bought by a shipper he pays the pipage on the oil and directs the shipment by rail to such points as he may desire. My control over the oil ceases as soon as they run it from my individual tank into the lines of the United Pipe Lines; my oil is then mixed with the general oil of the district and all identity of it is lost.

Q. Is your case, sir, an exceptional one, or is it an illustration of how the business is done?—A. To my belief it is the universal practice of nearly all the producers, ninety-nine out of a hundred. Some few exceptional cases were interested in refineries of their own, and were shippers of their own, but the bulk of the producers deal as I have detailed it.

Q. State what connection the United Pipe Lines has with the Pennsylvania Railroad and other railways?—A. It would be very difficult for me to state all; I could state a great number of them.

Q. I wish you to state how the connection is made, and in that connection, too, you can state the lines?—A. The United Pipe Line takes the oil from the district of Butler and Clarion, in which I am particularly engaged and know most about, by pipe direct to Pittsburgh, avoiding all use of railroad communication; they bought the Conduit Line, a 3-inch line; the American Transfer, which I believe is identical, have a 4-inch line to Pittsburgh; they prorate the Pittsburgh trade, giving two-thirds of the crude required in Pittsburgh for the pipe line, and one-third to the Allegheny Valley Railroad Company; they afterwards tore up the Conduit Line and moved it, I believe, to Bradford; I have been informed and believe—

(Objected to as incompetent and mere hearsay.)

MR. HAMPTON. We want your personal knowledge.

The WITNESS (continuing). They deliver oil to the Valley road at Brady's Bend, Sara Furnace, Monterey, Ocean Siding, Parker, Mouth of the Clarion, Foxburgh, Scrubgrass, and there my knowledge ends. They deliver oil direct by a 3-inch pipe to Oil City; that line I have seen thousands of times and know where it lays; the capacity of that line would be 5,000 barrels a day easy. The capacity of the Pittsburgh line has been forced up to 7,000 by increasing the pumping stations. They put a pumping station exactly opposite to where I live, shortened the haul, and increased the capacity of the line. They pump oil to Harrisonville and Raymilton, I think a 3-inch line; that is about all I could speak of my own knowledge of their business.

Q. Do you know anything personally about the connections made by the United Pipe Lines with any railway?—A. I have just stated that they connect at Raymilton and Harrisonville with roads in the New York Central and New York and Erie interest.

Q. Have you knowledge, sir, of what is commercially known as the Green Line, operated by the Pennsylvania Railroad Company?—A. I have; it is a line of cars, built, owned, and run by the Empire Transportation Company. Mr. Brundred is their agent, representing them.

Q. Down to what period of time was that line operated by the Empire Transportation Company?—A. Some time in October, I believe, 1877. Since that time, I have been informed by Mr. Brundred, the agent, that the line was run directly by the Pennsylvania Railroad Company.

Q. Do you know personally anything in respect to the transportation of oil by the Green Line since it has been operated by the Pennsylvania Railroad Company, and, if you do, state what you know, if anything, in regard to a lack of car supply?—A. The first thing I think that I ever heard of any difficulty in the supply of cars for carrying oil was in the year 1878, on the first Thursday in June, I think.

Q. Let me now ask you whether during the time that line was operated by the Empire Transportation Company you had heard or known of any difficulty in the supply of cars?—A. I had not. I never heard of the scarcity of motive power or cars used as an element in the depression of the market until this occasion in the early part of June, 1878; I had not been at Parker for a few days previous to that, for some reasons which I now can not remember. I think Thursday I left home and went to Oil City and transacted some business there with the United Pipe Lines relative to our tankage; I came back to Parker in the evening about 5 o'clock. I wish to state here that a few days previous to this time the United Pipe Lines had issued an order that they would not run any oil from any wells unless it was sold before it was run, alleging that their tanks were full.

(The foregoing answer objected to as incompetent and irrelevant to bind the Pennsylvania Railroad Company.)

The WITNESS (continuing). I came to Parker about 5 o'clock in the evening, and

found the citizens in a state of terrible excitement; the pipe lines would not run oil unless it was sold; the only shippers we had in Parker of any amount, viz, the agents of the Standard Oil Company, would not buy oil, stating that they could not get cars; hundreds of wells were stopped to their great injury; thousands more, whose owners were afraid to stop them for fear of damage by salt water, were pumping the oil on the ground. I used all the influence I had to prevent an outbreak and destruction of railroad and pipe lines; I at once went over to the Allegheny Valley Railroad office and telegraphed to Mr. John Scott, president of the Allegheny Valley Railroad Company, that owing to the refusal of the United Pipe Lines—

(Defendant's counsel object to the witness proving the contents of the dispatch that he sent to John Scott, president of the Allegheny Valley Railroad Company, on the ground that the witness can not prove the contents of a written communication, the production of the original or a copy of it being the best evidence; and further, as incompetent and irrelevant, as binding the Pennsylvania Railroad Company in this case.)

Q. State whether the dispatch you have spoken of was sent over the private line of the Allegheny Valley Railroad Company?—A. It was.

Q. Did you write it or simply dictate it to the operator?—A. My belief is I dictated it—thinking, now, I am not certain. I can produce on a future occasion a copy of the dispatch; but I know that I know its contents by heart.

Q. Did you receive a reply to that telegram?—A. I did; it was there next morning before I got out of bed.

Q. State what your telegram was?

(Objected to for the reason heretofore given, there being no evidence that the witness has attempted to obtain from the operator of the Allegheny Valley Railroad Company the message he had dictated or a copy of it.)

A. "The refusal of the United to run oil unless sold upon immediate shipment, and of the railroad to furnish cars, has created such a degree of excitement here that the more conservative part of the citizens will not be able to control the peace, and I fear that the scenes of last July will be repeated on an aggravated scale." That message I left in the office about 7 o'clock in the evening; I got up the next morning before 7 and received an answer.

Q. What was the answer?

Mr. HAMPTON. Was the answer in writing?

The WITNESS. I think it was.

Mr. ACHESON. Was it an answer by telegraph?

The WITNESS. Yes, sir; through their own lines.

(Objected to, the dispatch having been directed to and received by the witness, who is incompetent to prove the contents of it, the dispatch itself being the best evidence in the case; and as incompetent and irrelevant as affecting the Pennsylvania Railroad.)

A. "What do you advise should be done? John Scott." I answered. "Will meet you to-morrow morning," which would be Saturday. Early—

(Objected to for the reasons heretofore given.)

The WITNESS (continuing). On Saturday morning I came in on an early train and met at the depot Mr. Shinn, then, I believe, vice-president of the Allegheny Valley Railroad Company, David A. Stewart, one of the directors of the road, and Thomas M. King, assistant superintendent.

(Mr. Hampton asks Mr. Acheson what he proposes to prove at this point.)

Mr. ACHESON. I propose to prove what took place by the witness and the parties he has named on that occasion, and what subsequently was done by the Pennsylvania Railroad Company in pursuance of what occurred at this interview and in consequence thereof.

(Objected to as incompetent and irrelevant, first, because the Allegheny Valley Railroad Company is not a defendant named in the bill filed in this case, and any communications that may have passed between the witness and the officers of that company are not binding upon the Pennsylvania Railroad Company. Those officers have no authority to bind the Pennsylvania Railroad Company by any declarations they could make.)

(Defendant's counsel does not object to any declaration made by any officer of the Pennsylvania Railroad Company at that time to the witness.)

The WITNESS. We walked down town to some office, I don't recall exactly where, where we could have a private talk. I spoke very plainly to Mr. Shinn, telling him that the idea of a scarcity of cars on daily shipments of less than 30,000 barrels a day was such an absurd, barefaced pretence that he could not expect men of ordinary intelligence to accept any excuses for the absence of cars, as the preceding fall, when business required, the railroad could carry day after day from 50,000 to 60,000 barrels of oil. Mr. Shinn stated clearly that he knew that I knew that the Allegheny Valley Railroad Company did not control the oil business over its line, but were governed entirely and exclusively by orders received from the Pennsylvania Railroad Company. I then requested him to be the vehicle of communicating to the Pennsylvania Railroad officials my

views of the subject, telling him that I was convinced that unless immediate relief was furnished and cars afforded there would be an outbreak in the oil regions. After further conversation we parted. My interview with them was not as officials of the Allegheny Valley Railroad Company, but as representatives of the oil traffic carried on and controlled by the Pennsylvania road. On the next Monday I returned to Parker. After passing Redbank, where the Low Grade road, the connecting link between the Valley road and the Philadelphia and Erie road, connects the Valley road, between that point and Parker the express train was delayed for over half an hour in passing through hundreds of empty oil cars. The shipments on Monday, to the best of my recollection, were over 50,000 barrels, and they equaled that amount the balance of that week, while the week before they had not exceeded if equaled 30,000 barrels.

By the MASTER :

Q. Weekly or daily ?—A. Daily. The shipments as I give them are taken from the official tables prepared by the president and secretary of the Oil City Exchange, from daily reports furnished them by the United Pipe Lines, and they constitute our only data used in the oil country for determining the daily shipments.

(Objected to as incompetent and irrelevant, and merely hearsay as to the number of cars shipped, the defendants not being bound by any reports made by people other than their own officers.)

Q. These empty cars you speak of suddenly appearing were of what line ?—A. Green Line cars.

Q. Can you fix the date of this occurrence ?—A. It was on the Monday succeeding Thursday, which I think was the 4th of June.

Q. Then, according to your recollection, it would be Monday, the 8th of June, 1878 ?—A. Yes, sir.

Adjourned to 10 a. m., February 1, at the same place.

PHILADELPHIA, *Saturday, February 1, 1879.*

Before J. B. Sweitzer, esq., master and examiner.

Parties met pursuant to adjournment of Friday, January 31, 1879.

Same parties present, and examination of witnesses continued.

Mr. B. B. CAMPBELL, recalled.

Direct examination by Mr. ACHESON :

Q. State what was the market price of crude oil before your communication with the railway officials, and the furnishing of cars in June, as you have testified to, and what was the market price immediately after those cars made their appearance ?—A. During the months of April and May the crude market was what we call strong, the price not varying very far on a fixed average, in the neighborhood of \$1.35. At times it would be forced above that by the tactics of the "bull" party, and depressed below that by the "bears," but the apparent fixed value was between \$1.30 and \$1.40. Shortly after the 1st of June, shortly after the refusal of the United Lines to run oil unless it was sold before shipment, shortly after the failure of the railroad companies to furnish needed facilities, the price of oil dropped, and commenced a course of almost uninterrupted decline until the depressed price of 80 cents a barrel was reached, I think, in October. I won't be positive about that. That was about the lowest price reached ; but from the 1st day of June until the lowest point was reached the course of the market was downward, heavy, and depressed. In the following month, or rather the commencement of July, the shipments reached a magnitude unequalled in the history of the oil trade, and in the face of the increased shipments the price declined.

Q. You say, in the face of these heavy shipments the price declined ?—A. Yes, sir.

Q. As one long in the trade and acquainted with its workings, state to the master what, in your judgment, was the reason for this decline in the face of these increased shipments.

(Objected to as incompetent and irrelevant, as merely the opinion of the witness.)

A. In my opinion the market was controlled by practically one buyer. Practically to-day, there is but one buyer of crude oil for use.

Q. Name that party.—The Standard Oil Company and its connections. The gentlemen who testified here are known as outside refiners of New York and use a considerable amount of oil, but as compared with the controlling buyer, the Standard Oil Company, in the market they are but as drops in the bucket. We take our commodity to one buyer; we take the price he chooses to give us without redress, with no right of appeal.

Q. Now, sir, explain how it is the Standard Oil Company has this monopoly.

(Objected to as being incompetent and irrelevant, there being no averment in the bill that this evidence tends to support.)

A. Simply from the fact that the only power and control, in my belief, that the Standard Oil Company has over the market is based on the receipt by them of the exorbitant and gross rebates on the freight rates. As business men, as refiners, I do not consider that they have any advantage over any independent refiner, possessed of ordinary capital or ordinary ability. On the contrary, they are loaded down by the payment of hundreds of thousands of dollars a month to men whom they have turned out of the business, and who to-day are acting as their paid, apparently useless, agents. As refiners, unless protected by exclusive rebates, I consider that the Standard Oil Company appears in the market under very great disadvantages. But on looking at the evidence filed in this case—

(Objected to.)

The WITNESS. I will state that where they are getting a rebate of four-fifths of the rate charged, it is utterly impossible for any one to attempt to compete with them. I believe a rebate of 10 cents a barrel on the open rates would be a fortune to any refiner, and a rebate of \$1.10 a barrel on refined, shipped from Titusville to the seaboard, would be eleven times as much advantage as 10 cents.

Q. On crude?—A. No, sir; on refined.

Q. What, sir, do you know from your own observation as to the Standard Oil Company acquiring possession of rival refineries in the oil-producing regions of Pennsylvania and elsewhere?

(Objected to as incompetent and irrelevant, the defendant, the Pennsylvania Railroad Company, not being charged in the bill with directly or indirectly aiding or abetting the Standard Oil Company in procuring the control of or buying out refineries; that the matter sought to be inquired of is not pertinent to the issue or any question we are trying.)

A. About the year 1870 to 1871, when I first began to give my attention to the production of oil in earnest, there were about Pittsburgh a vast number of refineries, I think over fifty, bringing the crude oil from the regions of Pennsylvania, refining it in Pittsburgh, and from Pittsburgh shipping the principal amount over the Pennsylvania Railroad to Philadelphia, which was then the great natural shipping point to foreign countries of the Pennsylvania product of petroleum. I think in 1872, I won't be certain about the date, a combination was formed, known in the oil country by the name of the South Improvement Company.

(Objected to as incompetent and irrelevant, and as attempting on the part of the witness to place upon the record facts and transactions which transpired years ago, with which it is not alleged the Pennsylvania Railroad Company had anything to do, nor is there any averment in the bill that there was ever such a corporation as the South Improvement Company; and objected, further, as placing upon the record a mass of hearsay evidence, which can not in any way affect the defendant.)

The WITNESS. The signers to that document on the part of the refining interests comprised the leaders and controllers of to-day, the Standard Oil Company, the purpose and object of this South Improvement Company being avowed on the face of the document, which these parties, together with the president or leading officers of the Pennsylvania Railroad and New York Central Railroad and New York and Erie Railroad, also signed, declared in plain terms.

(Objected to as incompetent and irrelevant, the witness having shown that the paper is either in print or writing, and being the best evidence of its own contents the witness can not state what it contains.)

The WITNESS. That the railroads would give the parties, the refiners, a rebate of at least \$1 a barrel, and as much more as was necessary to give them the monopoly of the petroleum business. This document was produced, made known to me and to the other producers, in the committee-room of a committee appointed by one of the houses of the legislature, I can not say which—I think it was a committee of the house. When this fact became known throughout the region an excitement was created which has never been equalled. A statement was made to the officers of the railroad by a committee appointed by the then producers' association.

(Objected to unless the witness was present at the conference and will undertake to state an interview held between himself and the officer, naming him.)

The WITNESS (continuing). I was not present, but for five years I did business on the faith and governed by the terms agreed on in that conference. The officers of the railroad were told that they had placed themselves within the scope of a criminal indictment for conspiracy.

(Objected to unless the witness was present and heard the interview, and names the officer of the Pennsylvania Railroad with whom it was held.)

The WITNESS (continuing). The South Improvement Company's scheme was abandoned, and the railroad companies made a contract with us for the transportation of petroleum. By "us" I mean the producers, in which they guaranteed that the rates

on crude and refined petroleum should be the fixed, given, and definite amounts stated in the contract without discrimination; that that contract should only be repealed or altered on a given fixed notice, I think of ninety days. In common with all other producers I was a party to that contract.

By Mr. HAMPTON:

Q. Was it in writing?—A. I never saw it; I believe so, but I never saw it in writing. (Objected to as incompetent and irrelevant, not only as to the foregoing statement which the witness has made, but as to anything he may state as to the contents of that which is in writing; it being the best evidence of its contents, must be produced.)

The WITNESS (continuing). To the letter of agreement of the Pennsylvania road with the producers the road strictly adhered, and the enforcement of the letter of the contract was the ruin of their customers. No rebates were given over the Pennsylvania road, and yet refiner after refiner in Pittsburgh, buying his crude oil in open market, manufacturing it at his works, shipping it over the Pennsylvania road to the nearest sea-board town to the oil regions, met with a continued succession of losses, and either was forced to bankruptcy or the sale of his works, and a buyer for his works was always there.

(The whole of the foregoing statement objected to as incompetent and irrelevant, and as not pertinent to any question raised by the bill filed in this case against the Pennsylvania Railroad, relating merely to past transactions and not the subject of controversy at present.)

By Mr. ACHESON:

Q. Inform us who that buyer was.—A. The party known as the Standard Oil Company. They are the original Standard Oil Company corporation of Cleveland; the Standard Oil Company, I believe, a corporation of Pennsylvania, Warden, Frew & Co., Warden & Oxuard, or others, who are known to be directors, leaders, and controllers of the Standard Oil Company combination. When the Standard Oil Company had absorbed these numerous refining interests, had got the control of the refinery interests of Pittsburgh, it then appeared as the dictator of railroad rates. During the early spring of 1877, as the heaviest customer of the Empire line—the oil branch of the Pennsylvania road—and for some reason or other enjoying the confidence of its president, I was asked to use my influence, business, and position to throw trade over the line of the Pennsylvania road as against the Standard combination. Being to me both a pleasure and a duty, I entered into that service with all the zeal and all the power that I have. I made a contract with the Empire line wherein I bound myself to give all my business to this line. Its president came to Pittsburgh on a subsequent occasion to my house, and there met Mr. Hatch, chief agent of the Empire line in the oil country, Mr. E. G. Patterson, of Titusville, and myself.

(The foregoing evidence objected to as incompetent and irrelevant, it not having any connection with any act or declaration of the Pennsylvania Railroad by any of its officers, and the interview proposed now to be shown between the parties just named and the witness, and any declarations made therein, are irrelevant, because no officer of the Pennsylvania Railroad Company was then present, and at the time the interview took place the Empire Transportation Company was separate and distinct wholly from the Pennsylvania Railroad Company, and whatever acts or declarations its officers may have made or done are not binding upon the Pennsylvania Railroad Company.)

The WITNESS (continuing). After considerable desultory conversation Mr. Potts, as representing the transporting interest, drew up a formal contract to be signed by the producers on the one part, the Empire Pipe Line on the second part, the Empire Transportation Company on the third part, and to be indorsed and guarantied by the Pennsylvania Railroad Company, the Allegheny Valley Railroad Company, the Philadelphia and Erie Railroad Company, and the Pennsylvania Company of the West, wherein, under the condition on our part—

(Objected to, the witness having shown that the contract proposed to be made was in writing. Defendant's counsel objects to any evidence as to its contents, and requires the witness to produce the contract itself, or if not a contract a proposal for a contract in writing, and that the witness is incompetent to state that which is in writing.)

The WITNESS (continuing). That we should run our oil through the pipes of the Empire Pipe Company, and one further condition, that in case any of the parties to this agreement desired to sell their property, that the Empire Transportation Company should have the right to buy their property at the same price as any public bona-fide bid that we received. They, on their part, agreed to transport that oil to the sea-board at as low rates of compensation as they did for any other party, or at as low rates as any competitive line would take like oil produced in the same place, deliverable at the sea-board; and further, in case we wished to send our oil to a local refinery, as to Pittsburgh, they would carry the oil to the refinery and allow it to be refined,

would ship it on the usual basis at as low rates as if that oil had been carried to any other refinery by any other route, and would also take the products, less the naphtha and the tar, as they were carried for other parties from like points. They would take our crude oil from the wells to a refinery in Pittsburgh and would deliver it in any Western city with which the Pennsylvania Company had direct connections as cheaply as if the oil had been sent to Cleveland, and from Cleveland sent west. When Mr. Potts read this contract, which he drew up without one word or suggestion from Mr. Patterson or myself, we accepted it in a moment. I made one suggestion. Mr. Potts wished to do a purely transporting business; owing to the competition existing between the Standard Oil Company and the united lines on the one side, backed by the New York Central and New York and Erie road, and the Union and Empire Pipe Lines of the Pennsylvania road, it was necessary for these pipe lines to get business, to buy the oil from their customers. During this fierce competition the freight rates were sunk by the competition. Mr. Potts agreed that for six months after the date of signing the contract the Empire line would continue as they had done for the last year, and buy the oil from the producer, if he preferred to sell it to them rather than ship it, the first six months being ample time for every producer to ally himself directly with some refiner. It was made the duty of Mr. Patterson and myself to get signatures of producers to this agreement, and a sufficient amount to warrant the Pennsylvania road entering into a permanent arrangement. The contract was, I think, for three years. Unfortunately the riots occurred in Pittsburgh a short time after our last interview with Mr. Potts, who throughout this entire arrangement represented himself as the agent of the Pennsylvania road, as well as president of the Empire Pipe Company.

(All the foregoing evidence is objected to as incompetent and irrelevant, and not in any way affecting the Pennsylvania Railroad Company, it not being shown that, directly or indirectly, it participated by any authorized agent or officer having authority to bind it, and as matter purely of private negotiations between the producers on the one part and the Empire Transportation Company on the other, which was a separate and distinct corporation from the defendant.)

By Mr. ACHESON:

Q. How soon after that last interview with Mr. Potts did the Pittsburgh riot occur?—A. Probably ten or fifteen days.

Q. Now, proceed with your narrative.—A. I was notified by Mr. Potts that owing to the changed circumstances of the Pennsylvania road—

Mr. HAMPTON (interrupting):

Q. Is that notification in writing?—A. I can not tell you; very probably it is a telegram. I got word somehow to come to Philadelphia. I can't tell you how. Mr. Patterson and myself met here a day or two before the sale—the resolution of the board of directors of the Pennsylvania road authorizing a sale of their refineries to the Standard Oil Company. Mr. Patterson and myself in this house prepared a letter to them.

Q. To whom?—A. It was addressed to the board of directors of the Pennsylvania Railroad, Thomas A. Scott, president, of which I will produce a copy, and know it to be correct.

(Witness produces copy of the letter.)

By Mr. HAMPTON:

Q. Was that letter delivered personally to any officer of the Pennsylvania Railroad Company?—A. No, sir.

Q. It was never delivered to the Pennsylvania Railroad Company?—A. Not by either of the writers. It was registered and I have the register-letter receipt here, addressed to Thomas A. Scott, and receipt for the letter by Thomas A. Scott, per a deputy.

By Mr. ACHESON:

Q. Did you receive a reply?—A. No, sir.

(Receipt marked as Exhibit No. 22, *Commonwealth v. Pennsylvania Railroad Company*, Philadelphia, February 1, 1879, J. B. Sweitzer, master, of which the following is in substance a copy: "Returned registered letter, receipt No. 7876, Philadelphia, September 11, 1877, mailed at Titusville, Pa., by E. G. Patterson, a letter addressed to T. A. Scott, Philadelphia. Received the above-described letter, Philadelphia, September 12, 1877, Thomas A. Scott, per James Vizard.")

(Plaintiff's counsel offer in evidence the receipt, Exhibit No. 22.)

(Plaintiff's counsel offer in evidence the copy of the letter mentioned in the receipt to Thomas A. Scott, president of the Pennsylvania Railroad Company.)

(Objected to as incompetent and irrelevant, as containing a statement of facts of a general character that has no relation whatever to the subject-matter of controversy in this case, and as containing merely the views, arguments, and opinions of B. B.

Campbell, of Pittsburgh, and E. G. Patterson, of Titusville. That such declarations and statements can not be made evidence in this way. That the facts therein, if competent evidence, are susceptible of proof, but can not be shown in a letter of the general character of the one presented. That it in no wise could bind the Pennsylvania Railroad Company, either to assent to or to decline to assent to any of the terms of the proposition therein stated, and because the said letter bears the date Philadelphia, September 11, 1877, long prior to the filing of the bill in this case, in October, 1878, and as having no relation whatever to the controversy that arose in the early part of 1878, and which led to the filing of the bill by the Producers' Union in this case; and further, that there being no reply to the letter upon the part of the Pennsylvania Railroad Company, it can in no way be bound by any assertions of fact therein contained any more than a letter by one individual to another containing views and arguments which he proposes to advance, can be said to bind the person who receives the letter, and as incompetent and irrelevant.)

The witness then read the letter as follows:

"To the President and Directors of the Pennsylvania Railroad Company :

"GENTLEMEN: About July 1, last, the undersigned were of a delegation from the oil region of our State, asking of your road an assurance that its course during the preceding two months, in giving to all producers and shippers of petroleum equal facilities and impartial rates, might be formally made its permanent policy.

"In an interview with your president at that time that assurance was given, coupled with the requisition that such support should be given it by the producers and shippers as would repay it for the exertion it must make in defending that policy and guarantying that such support should be continuous and permanent.

"The people of the oil region were only too glad to enter into such an agreement, and steps were immediately taken of a practical nature to carry it out.

"It was understood that it could not be immediately done.

"After the formal abandonment by the trunk lines of the South Improvement Company in 1872, your road for some months faithfully adhered, as we believe, to the pledge then given by all the trunk lines, that no discrimination should thenceforth be permitted. We believe, also, that it stood alone among the roads in adhering to it, for gradually the persons constituting the South Improvement Company were placed by the roads in as favorable a position as to rates and facilities as had been stipulated in the original contract with that company. At this time the line of your road in western Pennsylvania, including that under your influence and control, was dotted with refineries capable of producing a large proportion of the refined oil needed by the world. The policy of the Standard Oil Company, the successor in everything but name of the South Improvement Company, has resulted in the dismantling and abandonment of every one of those refineries as soon as they fell into their possession which could not be reached by some other and a rival road to yours; and now there are in the oil region proper but few refineries, and those universally owned by the Standard Oil Company, those in Pittsburgh being owned or controlled by that combination, or by the Conduit or Empire lines.

"The use and export of crude oil is but a small proportion of the consumption, and time and money were required to re-establish this great product upon its former basis, and these people were glad to furnish all immediate means to accomplish this end, as are also capitalists at other points not strictly within the oil region, yet upon your lines.

"We are met in the midst of this preparation by assertion of agents of the combination, and as accepted news by the press, that such a combination is entered into or under consideration by your road and the Empire Transportation Company, the Erie, Central, Lake Shore, and Baltimore roads of the one part, and the Standard Oil Company of the other, as would preclude your road from carrying out the policy announced by your president at the interview heretofore referred to.

"We believe there is danger that such a result may be reached, and we, in behalf of those whom we represent, in making our efforts to prevent its accomplishment, or if accomplished to defeat it, as a first step address this communication to you, desiring to present its aspect as affecting your road from our standpoint.

"So far as we and the general public are affected, you will not question that the present scheme is but the repetition of the South Improvement scheme, never abandoned by its authors, and seeking the sole and absolute control of all the petroleum produced, purchased, refined, and shipped within the States of Pennsylvania, New York, Ohio, or West Virginia.

"The overproductions of 1873, 1874, 1875, and the consequent almost entire destruction of petroleum values, gave the Standard Oil Company, with its organization and capital, almost the desired monopoly.

"The equalization of consumption and production in 1876-'77 brought that combination to the same point that they were in in 1872, utterly unable by reason of geographical position, if for no other, to monopolize this product without the co-opera-

tion of all the transportation, and then only under a contract similar to that of the South Improvement Company, and including all of its dangerous and extraordinary features; none other can serve them; and so they stand to-day, and we believe that your road can enter into no compromise, treaty, or arrangement which will serve the ends of the monopoly, under any less stringent stipulations and devoid of the liabilities thereof.

"Under such an arrangement it is probable that the Central and Erie have transported its oil during nearly all of this year. It is now an open secret in the producing region that no charges follow the shipments over at least one of these roads, and crude oil is delivered in New York in shipping order at prices which barely repay the cost of packages and contents, with little or no remainder for transportation charges. This aid to the scheme of combination is possibly given in view of the high tariff and consequent large revenue promised to be derived hereafter, when the scheme has been made a success, and all opposition in trade and transportation extinguished.

"Suppose your opposition to be withdrawn and you join the alliance, where does your profit come in? We are entitled to impartiality. As we are advised, the law, common and statute, provides for it; it pronounces those participating in such a scheme conspirators against the public weal, and there is no court upon your line but what will enforce, by mandamus and injunction, the impartiality that we ask. The combination will promise you an immediate increase of revenue. If we are well-advised, will you realize upon that promise? Can you make a contract with them that if we do not succeed in destroying it will be their interest to keep? You will not have a refinery left; and they are now completing pipe lines from Pittsburgh to Oil City and can deliver the oil received by all their pipe lines independent of your road and its branches. In case of a contract with them executed, but afterwards broken, from what source will you derive your oil traffic, and what court will enforce the broken contract in your favor? We urge that you can not enter into any arrangement with the monopoly that can be permanently useful to it and to you, and doubt if it can be made temporarily so.

"Suppose that you decline to enter into such a treaty or any such scheme, but announce and adhere to the opposite policy? There is no law, not even that of necessity, to compel you to serve the ends of the Standard Oil Company.

"If Messrs. Vanderbilt and Jewett believe that their aid alone is insufficient to the establishment of the monopoly, for how long will they carry its oil as at present, for nothing, when they could have full rates by uniting the railroad interest and leaving the Standard Oil Company to do its business in common with all others?

"If the Pennsylvania Railroad, having the geographical position in its favor, will announce and adhere to the policy of impartial and competitive rates, in three or six months it can have all the facilities and extent of business which the Standard Oil Company can give the competitive roads, and by men who have all to gain by so doing.

"We ask consideration of our views and of our assurances of good results from their favorable consideration.

"If you choose to place the matter in the light of an experiment, its trial can cost you nothing but the failure to realize upon the immediate fulfillment of the promises of the common enemy, and that realization we believe will not be permitted.

"Very respectfully,

"B. B. CAMPBELL, of Pittsburgh,

"E. G. PATTERSON, of Titusville,

"PHILADELPHIA, September 11, 1877."

Q. Did you ever receive from the Pennsylvania Railroad Company a reply to that communication?—A. Never.

Q. Did you have any further communication, either with the road or with Mr. Potts, who you say professed to represent the road, prior to the time when the Pennsylvania Railroad Company bought out the Empire Transportation Company, or not?

(Defendant's counsel objected to any interview that took place between the witness and Mr. Potts, because the latter is not an officer of the Pennsylvania Railroad Company, and not competent in any respect to bind it, but he does not object to any evidence that may be given by the witness as to an interview between any officer of the Pennsylvania Railroad Company competent to bind that company, there being first proof as to who that officer was at the time.)

The WITNESS (continuing). Knowing that within a few days after the date of that letter the Empire Transportation Company pipe line was sold to the United Pipe Company, that their Eastern refineries were sold, that their tank-cars on the line were branded with a mortgage held on those cars by the Standard Oil Company, which mortgage being to-day held for the Car Trust Company of Philadelphia, we took no other steps, it being too late and the mischief done.

(The whole of the foregoing answer objected to as incompetent and irrelevant and as not affecting the defendant in any respect.)

By Mr. ACHESON:

Q. When, Mr. Campbell, did the Pennsylvania Railroad Company commence operating the Green Line directly?—A. I understood, from conversation with Mr. Brundred, their agent, that it was immediately after the transfer. He still continued to be their representative, as he had been before.

Q. He had been the representative at Oil City?—A. For the Empire Transportation Company or the Green Line; he still holds the same position.

Q. He continued afterwards to represent the Pennsylvania Railroad Company?—A. Yes, sir.

Q. Did you see, sir, a circular letter at that time issued by the Pennsylvania Railroad Company, signed Thomas A. Scott, president, with reference to transportation?—A. My recollection don't hold good. If it was published in the papers, of course I saw it; but I don't remember.

Q. You spoke at an earlier stage of your examination of there being at one time as many as fifty oil refineries in the city of Pittsburgh?—A. Yes, sir.

Q. At the present time, sir, how many refineries are there, if any, outside of the Standard combination?

(Objected to as incompetent and irrelevant.)

The WITNESS (continuing). There is one small refinery owned by a gentleman of the name of Reighard. I needed a couple of barrels of oil for my own use about three weeks ago. I wanted to buy two barrels of oil. I didn't want to buy from the Standard combination. I hunted industriously for a refinery where I could buy, and I found Mr. Reighard at a small refinery, with a capacity of about 200 barrels a week. I bought two barrels of very fine oil.

Q. What has become of the fifty independent refineries that you say were there at the period of time referred to?

(Objected to as incompetent and irrelevant, there being no averment in the bill so far as the defendant, the Pennsylvania Railroad Company, is concerned, as to the number of refineries that existed in Pittsburgh in 1871-'72-'73, as stated by the witness, as compared with the number existing there now, or is there any averment in the bill which charges that the Pennsylvania Railroad Company was in anywise instrumental in the destruction of those refineries or in their ceasing to operate, and as incompetent and irrelevant.)

The WITNESS (continuing). The great majority of them, when bought by the Standard Oil Company, were dismantled, and the stuff, or "junk" as it was called, hauled to other refineries, and there made use of. When you leave Pittsburgh, going out on the Valley road, the first refinery you see running is that of McKee's. Mr. McKee owns his own refinery to-day, but he is to-day working for the Standard Oil Company.

(The foregoing question and answer objected to as incompetent and irrelevant.)

The WITNESS (continuing). There are some small refineries near the mouth of Ewalt street, Bly & Elkins's old refinery, which are owned directly by the Standard Oil Company, all oil being marked Standard Company. Next, the refinery of Holdship & Irwin, owned by them, but worked under a contract with the Standard Oil Company. At the end of the Sharpsburgh bridge, the Citizens' Own, the next large refinery, worked under a contract with the Standard Oil Company. The next large refinery is that of the well-known Brilliant works, owned by Lockhart, Frew & Co.; run by the Standard Oil Company. The next two works immediately above the Brilliant are the old Vesta and Cosmos, two large works, whose cost was probably \$300,000, which were purchased at sheriff's sale by the Standard Oil Company for \$30,000, and are to-day run very vigorously and very largely by the Standard Oil Company. On the line of the Valley road the next refinery that I know of is the Germania Refinery, a refinery built and owned by James A. Hutchinson, of Pittsburgh, who had a contract with the Empire Transportation Company for the manufacture of oil, and ran his refinery to its utmost capacity as long as the contract with that line existed. The works are standing idle, leased by the Standard Oil Company. At the West Pennsylvania Junction are the works erected originally by Mr. Rieter, his right name I have forgotten now; bought and owned by the Standard Oil Company. Immediately above that, a distance of about a mile and a half from West Pennsylvania Junction, is the town of Aladdin, where very large works were built originally for the distillation of coal oil, and converted afterwards into a refinery for petroleum. These works have been dismantled, the majority of the stuff being shipped to the Standard Oil Company's lubricating works at Franklin.

Q. Dismantled by what company?—A. By the Standard Oil Company. I am not so familiar with the works on the other side of the river, on the West Pennsylvania road, but I know that all the oil made by them is made either for or by the Standard Oil Company. Immediately opposite to my house, 19 miles from Pittsburgh, are the works of the Central Oil Company, probably the largest oil refinery in Pennsylvania, owned and controlled by the Standard Oil Company.

(Objected to as incompetent and irrelevant, the evidence disclosing nothing more than the sales of oil refineries voluntarily made, even according to the statement of

the witness, to the Standard Oil Company, and as not showing, or attempting to show that those sales were made to the detriment of their owners, by any illegal combination in which the Pennsylvania Railroad Company participated, and as merely an attempt on the part of the Commonwealth to load the record with extraneous facts and circumstances that have no bearing whatever upon the point at issue.)

Q. From your own knowledge and observation, state who is to-day practically the only refiner of oil in western Pennsylvania.

(Objected to as incompetent and irrelevant; first, because it tends merely to elicit the opinion of the witness and not any facts; and secondly, not tending to prove any averment set out in the bill filed against the defendants in this case.)

The WITNESS (continuing). The Standard Oil Company combination.

Q. What, sir, in your judgment as an oil man and as a business man, has been the effect of this combination upon the oil interests of western Pennsylvania?

(Objected to as incompetent and irrelevant, for the reasons heretofore stated.)

The WITNESS (continuing). Most disastrous; we are compelled to sell our commodity to a single buyer, accepting not the value of that commodity, but what the buyer is willing to pay us. Of course, I wish to qualify that by "practically so." Other parties have been buying smaller lots, as has been testified to here, but practically the oil has been sold as I have stated.

Q. What has been the effect of this Standard combination upon the refining interests of the State of Pennsylvania?

(Objected to as incompetent and irrelevant, for the reasons heretofore stated.)

The WITNESS (continuing). Absolutely ruinous to all not in combination, or not adopted or fostered by it. Bankruptcy to all attempting to lead an independent existence.

Q. I think that you said the city of Philadelphia, in your judgment, was the natural port for the exporting of refined petroleum?

(Defendant's counsel objects to any answer witness may make on that subject, as tending merely to elicit the opinion of the witness upon a matter wholly irrelevant to any question or averment contained in this bill.)

The WITNESS (continuing). When the trade in the early stages was free and unfettered my belief is that Philadelphia exported 75 per cent. of all oil sent abroad. Being at the end of the shortest, best-managed, best railroad leading out of the oil regions, it was the natural place where all the oil, either shipped in crude form or manufactured in the oil regions or manufactured here, should be exported; any diversion to New York, either by refining in Cleveland or by shipping to New York and refining there, being, in my opinion, a violation of the natural laws—geographical laws—of trade.

Q. Now, sir, state what, according to your observation and knowledge, has been the effect of this Standard combination upon the business interests of the city of Philadelphia in respect to the petroleum trade.

(Objected to as incompetent and irrelevant, and as tending merely to elicit the opinion of the witness upon a general subject, upon the movement of oil and as to the question of export, and as not pertinent to any matter set forth in the bill filed in this case against the defendant.)

The WITNESS. Accepting as correct, as we are compelled to do in our business, the figures furnished us by the statistics in the petroleum trade, and especially by Mr. Stowell, a witness in this case, during last year New York exported, I believe, 42 per cent. of the entire production, Philadelphia 9 per cent.

The cross-examination of the witness postponed until a future day.

Adjourned to meet at the same place, Thursday, February 6, 1879, at 10 a. m.

B. B. CAMPBELL was recalled in the case of *The Commonwealth v. The Pennsylvania Railroad Company*, and cross-examined by Mr. Hampton as follows:

The WITNESS. Before the cross-examination begins I desire to correct my testimony. In my examination-in-chief I stated that I thought the dispatch I sent from Parker to Mr. Scott I had dictated. I have since found the original, which is written by myself, and I desire to put the dispatch itself in evidence. This is the original dispatch I wrote.

The MASTER. Do you want to put it in as an exhibit or put it on the record?

The WITNESS. This is a correction. I repeated the dispatch before from memory. This is the original itself. I thought I had dictated it. Dispatch read, as follows:

JOHN SCOTT,

President of A. V. R. R.:

The excitement against the Standard for refusing to buy oil to-day while tanks are running over is intense, and will, unless relief is given and the immediate shipment

plan abandoned, lead, I fear, to excess which the more prudent part of the people can not prevent, and the scenes of last July in Pittsburgh repeated.

B. B. CAMPBELL.

Cross-examination by Mr. HAMPTON:

Q. Mr. Campbell, are you the president of the Producers' Union?—A. I am, sir.

Q. Where has that organization its headquarters?—A. Titusville.

Q. How long has it been in existence?—A. The first meeting of the council, was, I think, in November, 1877—the latter part of November.

Q. For what purpose was it organized?—A. It was organized for the purpose of being a protective organization for the producers; for the purpose of collecting statistics about their business for their own information; for protecting themselves against all conspiracies formed to injure the producers in their business.

Q. What particular injuries were supposed to exist that the Producers' Union was organized to prevent happening to the producers?—A. In my opinion?

Q. Well, give us the facts.—A. So far as I can speak, it has been that of the over-weening control of the oil business by the Standard Oil Company.

Q. That, you say, was the purpose of the organization at the time you started in the fall of 1877?—A. Yes, sir; I could only speak so far as it has been developed by its acts.

Q. What is the present number of the council that meets at Titusville?—A. It varies from 160 to 170 down; the average attendance is from 75 to 160, I suppose.

Q. Are there branches of the council throughout the oil regions?—A. Yes, sir; local unions.

Q. Called local unions?—A. Yes, sir.

Q. At what points?—A. It is difficult to repeat them. I will do it as far as I can. There is one at Pittsburgh that I think has fallen into disuse; one at Butler, Kittanning, Millerstown, Karns City, Modoc, Petrolia, Parker, Foxburgh, Emlenton, Saint Petersburg, Turkey City—the town that was burned—Edenburgh, Franklin, Oil City, Pleasantville, Titusville.

Q. Are these organizations that you have named independent of each other, or do they work in harmony?—A. I have not gone through the list yet; I was trying to think of one I can not remember; Bradford, Tidioute, Redbank, Olean, Allegheny, and there may be probably one or two others that I can not mind.

(Commonwealth's counsel objects to this line of examination as not cross-examination and as immaterial.)

Q. Do these organizations that you have named act in concert or independent of each other, or have they a common head?—A. They send delegates to the general council which meets monthly at Titusville.

Q. What is the entire membership, as nearly as you can tell, of the organization?—A. It is impossible for me to tell.

Q. As near as you can tell.—A. It would be a mere guess—from 2,500 to 4,000.

Q. Are they secret societies?—A. The council is not.

Q. I ask you if the societies themselves that you have named are secret societies?—

A. I believe they are; I know as to the one I belong to.

Q. You can state whether the membership is composed entirely of producers?—A. Almost entirely so. There are a few parties, I believe, who are not producers, though connected by interest with production, but almost entirely producers.

Q. Are there any refiners in it?—A. Not to my knowledge, sir.

Q. It is, then, an organization composed entirely, with, may be, a few exceptions, of producers?—A. Yes, sir.

Q. You can state whether amongst other objects of the association one is not to regulate and control the price of crude petroleum in the oil regions so far as may be?—A. From the time of the first meeting of the council to the last I have never seen an attempt to affect, directly or indirectly, the current price of oil—a successful attempt so far as any resolution or action being passed.

Q. Have there not been discussions upon the subject, and plans proposed for the advancing of the price of crude petroleum in the oil regions?—A. No doubt there have been, sir, alliances proposed to have that effect.

Q. Can you state with any degree of accuracy the number of producers of oil in the oil regions of Pennsylvania to-day?—A. I can not; the number has increased so in the northern regions that I know nothing about that; I could not give anything more than a mere guess.

Q. Are there 20,000 directly or indirectly engaged in the production of oil?—A. Oh, yes; unquestionably, directly or indirectly.

Q. Either owning wells, or directly superintending them, or interested in the ownership of them?—A. Oh, no, sir; when I speak of 20,000 I would speak of heads of families and men working; there are not 20,000 who are unfortunate well owners.

Q. About how many producers are there in the oil regions of Pennsylvania to-day, taking the Bradford district and the lower district?—A. That I can not give you any reliable data on.

Q. Are there 10,000?—A. That I could not tell you.

Q. Are there as many outside of your organization as inside it?—A. I have no means of judging. I am almost entirely ignorant of the northern country, which to-day is the greatest producing field.

Q. The Bradford region is the great producing region to-day?—A. Yes, sir.

Q. With that you are not familiar?—A. No, sir.

Q. Have you an oil exchange in the oil country at any point or points?—A. Several of them.

Q. At what points?—A. Parker, Oil City, Titusville, Bradford, Petrolia, may be others I am not familiar with.

Q. Are persons who are members of the association members of these different oil exchanges?—A. Many of the producers are, but as a rule active members of an exchange are not producers, and therefore not in the association. They are brokers.

Q. You can state whether or not the price of oil in the oil region is not regulated by these different oil exchanges?—A. I do not think it is, except temporary fluctuations.

Q. Is there not a very large amount of oil bought and sold at these exchanges?—A. There is.

Q. Is not nearly the entire product of the oil regions disposed of in that way through these brokers or oil exchanges?—A. The product is not disposed of in that way. The product is generally sold to buyers of the Standard Oil Company. It is accumulated stock that is sold on the exchange. The product is nearly all sold to buyers of the Standard Oil Company. There are buyers in every region, and they buy from the producers directly.

Q. Can you state the number of buyers of oil in the oil regions to-day?—A. Buyers for consumption, do you mean, or buyers for shipment?

Q. Buyers generally of crude petroleum.—A. I can not say who all represent the Standard Oil Company, but except them the only buyers for shipment are Warren Gray, who buys a little oil for Mr. Rousseaux, I think, and Mr. Nicholson, who buys for the association of outside refiners of New York. The other buyers, I believe, are all in the Standard interest.

Q. Who buys for the refiners at Philadelphia other than those owned by the Standard?—A. They probably would buy round lots at the exchange. They have no regular buyers in the field.

Q. There is a very large amount of oil produced and sold and sent to Philadelphia, is there not, for the refineries there?—A. I do not know the extent of the trade; there is some. The tables show it not to be so large, comparatively.

Q. Is Mr. Ohlen a buyer in the oil regions?—A. Not from producers, I think.

Q. He is a buyer?—A. He is; he buys on exchange.

Q. He has bought very largely within the last year or two, has he not?—A. Yes, sir; his shipments were to quite a large amount.

Q. Is he not one of the largest buyers in the oil region?—A. Oh, no, sir; the Standard combination purchase a great deal more than he does.

Q. Next to them, does he not buy the largest?—A. Yes, sir; I suppose he does.

Q. Whom does he represent?—A. He represents what is known as the outside refiners in New York. I can not name them all.

Q. Name them as near as you can.—A. Mr. Bush, Mr. Gregor, and Lombard & Ayres. I believe that is all I know. My acquaintance with them is very slight.

Q. Does he buy for what you term the outside refiners in New York?—A. I so understand; that is mere hearsay.

Q. Does he buy directly from the producers?—A. I think not.

Q. Or middlemen?—A. He buys, I think, from middlemen.

Q. Does he buy at the exchanges?—A. That I can not tell you.

Q. How often do the oil exchanges meet?—A. Daily.

Q. Meet daily?—A. Sundays and holidays excepted.

Q. And they bear about the same relation to the oil business that the gold room did to gold when it was above par in New York, do they not?—A. So far as I know of that institution, they do.

Q. Are not these exchanges open now, and have they not been open ever since they were organized for the producers to go in and sell their oil?—A. They deal in no oil except 1,000-barrel lots.

Q. If he has thousand-barrel lots, is not the exchange open to him?—A. Certainly; but that don't take the oil away from our market, though.

Q. I understand you, then, that whenever a man can command oil in thousand-barrel lots the exchanges are open to producers to go in and sell?—A. He can employ a broker or sell through a broker; if he is a member he could sell for himself.

Q. Has not the price of oil greatly fluctuated in the oil regions since the opening of these exchanges on account of the buying and bearing of the market?—A. I consider the exchange a regulator of the market.

Q. I did not ask you that.—A. You asked me if the fluctuation was on account of that. I do not think it was on account of that.

Q. I ask you whether or not the price of oil has not greatly fluctuated within the last few years, since these exchanges were established, owing to the mode of doing business in them?—A. No, sir; I do not consider that the cause.

Q. I ask you whether oil has not been bought and sold in these exchanges at prices greatly fluctuating from week to week and month to month?—A. They certainly do greatly fluctuate.

Q. Very much depressed one day or a week or so, and afterwards rising again?—A. Not very great changes in a week or two.

Q. It does change, does it not?—A. There is a change; yes, sir.

Q. Have not these changes a good deal to do with fixing and determining the price of crude petroleum in the oil regions as affecting the price at which oil is sold?—A. My belief is—

Q. I did not ask you your belief; I asked you for the fact.—A. I will answer it and give an explanation.

Q. I would prefer that you would just answer the question.—A. Ask the question again, will you, and I will give you an answer.

Q. (Question read by stenographer.) A. In my opinion the effect of the exchanges is to hold the price of oil from extreme elevation or extreme depression.

Q. Well, sir; state whether, within a period of a few months during any year since they have been organized and in operation, there have not been very great depressions and elevations in the price of crude petroleum.—A. There have been variations, owing either to parties buying large quantities of oil, or suddenly throwing large quantities on the market; in nearly all cases I believe that to be the work of the Standard Oil Company, the heaviest operator on the exchange.

Q. Now, I ask you the question again whether the quotation of the price at the oil exchange does not fix, as a general rule, the price of crude petroleum throughout the oil regions for the time being?—A. It does for that day.

Q. So that if the price of oil is depressed to-day from what it was a week ago, the whole oil region suffers with that depression?—A. They take the price.

Q. So that if a corresponding increase in the price of oil occurs from the same cause, it elevates or increases the price of crude throughout the oil regions?—A. Yes, sir.

Q. And that has its effect, has it not, upon the New York market in the quotation of crude and refined there?—A. I do not think the fluctuations of crude have their due force on the refined market. When crude is advancing you would naturally expect to see the refined go up, as it would if it was in the hands of the local market, but then you often see refined decreased, and *vice versa*. As far as the market is concerned, I think it is entirely fixed and arranged either on the exchange or off the exchange by the Standard Oil Company.

Q. That is your belief?—A. Yes, sir.

Q. You have no facts to support it?—A. I have the experience of a life-time.

Q. You have no facts you are stating an opinion from?—A. The facts every man has in his own business and that govern his proceedings.

Q. I am asking you whether it is your naked opinion unsupported by facts?—A. It is supported by facts. I have every day knowledge of it, and that the newspapers every day point out.

Q. Will you state what have been the daily transactions in crude, from day to day, one day with another, one month with another, as to their magnitude?—A. They are very large.

Q. Will you state what they are, what they would aggregate?—A. Of course, I can not tell that; I have known them to go as high as four and five hundred thousand barrels a day, that is the tossing about of certificates for oil in the hands of speculators, and not the oil itself; so far as the dealings in oil are concerned, they are confined to the shipment of oil from the oil regions, and not to these transactions of tossing about certificates by speculators, which I doubt very much are many times represented by oil; dealings of the exchange are not dealings of oil.

Q. You say that they have gone as high as four or five hundred thousand barrels of oil in a single day?—A. I believe so—sales of certificates on exchange.

Q. Those were certificates issued by whom?—A. Latter days by the United Pipe Lines.

Q. They were considered bona fide certificates, as I understood from your testimony in chief, and who ever held them has the title to the oil?—A. Has a title, but not to any specific oil.

Q. To so many barrels of oil?—A. Yes, sir.

Q. And if I held a certificate of the Union Pipe Lines for 50,000 barrels of oil, and should go on exchange with it, I would be considered as holding a title for 50,000 barrels of oil that the United Pipe Lines had?—A. Yes, sir.

Q. And I would be considered as a fair and square dealer if my oil was taken by

you on a bid; you would consider that I was in a condition, on the payment of the money by you, to transfer the oil?—A. Yes, sir; in position to transfer the oil, but the custody of the oil is never transferred until a shipment is made; it is a mere speculation with the representatives of oil.

Q. But that speculation which involves transactions of five or six hundred thousand dollars daily is based upon certificates issued by responsible parties?—A. Certificates issued by the United Pipe Lines.

Q. By responsible parties?—A. I know nothing about the responsibilities.

Q. Did you ever know of their not being responsible?—A. I know that every certificate of theirs that is transferred from hand to hand is transferred without recourse by every dealer in the oil regions.

Q. Do you say that they are not considered as importing absolute verity and honesty, and that money is paid on them?—A. They are dealt with as the best representative we have.

Q. Take any one day's operations of 500,000 or 600,000 barrels, what would be the average fluctuation in the price by the gallon or barrel?—A. I have known on the present basis as high as 5 cents a barrel variation in a day; it is not common, though.

Q. Take any one month in the year 1878, what would be the total of the operations of those oil exchanges in the selling of crude petroleum by the barrel?—A. The sale of crude petroleum by the barrel would be very small. The sale of certificates of the United Pipe Lines would be very large.

Q. State about how large it would be, the sale of certificates which impart a title; how many barrels in any one month with business in its average or ordinary stage?—A. I should suppose they would average 100,000 barrels a day, at least that; I am no judge of that, though.

Q. One hundred thousand barrels a day, every day in the month, Sundays taken out?—A. Yes, sir.

Q. Do I understand you that these operations in the oil exchanges are bona fide transactions, or gambling operations?—A. The great bulk of them are gambling operations, with no intention of buying or selling oil; it is to make money on the difference.

Q. So that the price of oil in the oil regions, in your judgment, is controlled by the gambling operations in these oil exchanges?—A. No, sir; it is not.

Q. Didn't I understand a moment ago that the price of oil throughout the oil regions for any given day, one day with another, was fixed by the sale of oil on the exchange?—A. Exactly, for the day, but not for the year; the price is fixed either by the accumulation of oil or the shipments of oil; these certificates of oil that are tossed from hand to hand, when they get heavy are thrown back on the market again.

Q. I ask you whether you did not state a few moments ago that the price of oil throughout the entire oil region was regulated by the quotations of the oil exchange?—A. I did, sir, for the day; meaning for the present time.

Q. Then I ask you whether or not, if that statement be true, the price of oil in the oil region is not dependent upon these great gambling operations at the rate of 100,000 barrels a day in any given month?—A. No, sir; I think they keep the price from going to extremes—either too high in times of demand or too low in times of depression.

Q. Then, if I understand you, if these are gambling operations, as you seem to think, they are a benefit to the oil regions?—A. I have not considered them an injury.

Q. Although you say you believe them to be gambling operations, and actual oil is not transferred, and although the price of oil is fixed in that way, still it is a benefit to the producers?—A. I did not say a benefit; I said not an injury, and I will give my reasons for it. In a time like this, when the shipments are very small, about 20,000 a day, and the production itself double that, if there was not speculation going on, it would be impossible to find a market; the shipper says he does not want it, and the producer is forced to sell that day; and he would be compelled to offer his oil lower and lower until a very low price would be reached. The speculator, however, he comes in and holds it until the buying time arrives; he steps in and buys this oil, carrying this stock. It is the stock that is the trouble.

Q. I understand the illustration you give in your answer is when there is not much demand for oil?—A. Yes, sir.

Q. Suppose there is a brisk demand for oil, how then?—A. Then, I believe, it prevents it going as high as it would by people selling the oil they do not possess, selling short.

Q. So that in getting at the real price of oil you have got to consider this gambling operation as an element very intimately connected with it?—A. For the mere price, but not so far as shipping and dealing in oil is concerned.

Q. Do not producers, many of them, go into the oil exchange with certificates and gamble in that way?—A. If they sell their certificates, that would not be gambling; it is a sale of the actual production.

Q. I understood you to say that these operations were mere speculations?—A. Not all of them: I said a great majority of them.

Q. Did you not say that they are in the main gambling operations?—A. A great many sell the oil that they have, which I consider legitimate; a great many sell oil that they have not, which I consider gambling.

Q. So there are some sales that are fair, and some that are gambling?—A. I do not call any gambling; one is a bona fide operation, and the other is what is called stock jobbing or gambling operation.

Q. Then I will inquire again, do not large producers and a great many of them go into these oil exchanges and gamble on these oil certificates?—A. I know some of them do, and they meet with one universal fate, that of loss.

Q. I did not ask you whether they lose or not; all I want is the fact whether they do not go in and go into these operations?—A. As a class I do not think they deal heavily.

Q. Do you now know of some members of your own organization going into these exchanges?—A. Most certainly they do; it is not prohibited by anything.

Q. When did you become acquainted with the oil regions of Pennsylvania first?—A. Either in 1870 or 1871, I can not state which.

Q. The Bradford district was not developed then—but very little?—A. Not at all, I think.

Q. Your knowledge was then confined to what is called the lower district, the Oil Creek and river district?—A. I never operated in Oil Creek. I commenced at Parker. My operations were properly confined to Butler, Armstrong, and Clarion Counties.

Q. Can you state about what time it was that the supply of oil exceeded the demand for it; or, in other words, when the overproduction of oil commenced in the oil regions of Pennsylvania?—A. I think from the very first; there have been periods of overproduction and then of scarcity, which affected the price. Some time in 1862 or 1863 I bought oil on the creek, although I never was there, as low as 35 cents a barrel.

Q. What is that price compared with it to-day?—A. Well, it was a better price because there were but few and very large wells.

Q. What is the price of oil to-day?—A. Ninety-seven and a half cents.

Q. I wish you would state whether the overproduction did not commence in about 1873?—A. That is the one I know the most about.

Q. You can state from 1873, on down until this time this overproduction has not gradually increased, having consequently decreased and depreciated the price of oil in the oil regions?—A. No, sir; in 1876 there was less oil produced than the demand, and consequently the price was very high.

Q. With that exception, has there not been a gradual and continued overproduction of oil since 1873; I mean now in the river and Bradford districts?—A. It is difficult to tell what overproduction is. We have got on hand about a four-months' stock, less stock of raw material than is held by any other industry in the world.

Q. I wish you would state whether you did subpoena Mr. Stowell, the editor of the Petroleum Reporter, of this city, to go upon this stand.—A. I did, sir.

Q. I wish you would state whether or not you were present when he was examined.—A. I was, sir.

Q. Did you hear him give the statistics of overproduction from the year 1873 down until the time of his examination, including the month of December, 1878?—A. I heard him give his statistics; with his statistics I was perfectly satisfied; they were not statistics of overproduction.

Q. Were not you present and aiding him when he was being examined in answering the questions by making calculations—aiding him in making calculations?—A. I was, sir.

Q. He stated in that examination in your hearing that the overproduction commenced in 1873, and has gradually increased from that time down to the year 1878; is that true?—A. I agree with Mr. Stowell's statistics; I do not agree with his deductions from them.

Q. Did you hear what he said?—A. I heard it, and his testimony is on record there.

Q. Do you believe his statistics upon that subject to be correct?—A. I believe his statistics of the business, as he gathers them, are correct; but neither he nor any one else can tell what over production there is; we know what stock we have on hand; we have about four months for active shipments.

Q. He stated that he was a man of very great experience in the business of collecting statistics. Is that your judgment of him?—A. I believe he is a very successful collector of statistics; if I had not thought they were true I would not have called him.

Q. Do you think he is as reliable upon that subject as any one we have?—A. As far as his statistics are concerned I agree with him; so far as his statistics of the production are concerned on their face I agree with him.

Q. Did you hear his statement made at that time that it was overproduction that had caused a gradual decrease in the price of oil from 1873 to the end of 1878?—A. I did, and I do not agree with him. I can give you my reasons very shortly. I believe that if the trade in oil was free, that if freight competition in transportation was free,

with free competition in refining, with refiners shipping as good oil abroad as we would then have, the consumption of the world would be so largely increased that we could not make enough for the demand; therefore I do not believe Mr. Stowell's deductions.

Q. But you take his statistics as true?—A. Yes, sir.

Q. And do not believe the overproduction he states?—A. No, sir; I believe the world would take 50,000 barrels a day if it was put properly on the market.

Q. When you were examined in chief you read a letter, which is to be found on pages 137, 138, and 139 of the printed evidence, signed by yourself and Mr. E. G. Patterson, of Titusville, directed to Thomas A. Scott, president of the Pennsylvania Railroad, and dated September 11, 1877. Who was Mr. Patterson who signed that paper along with you?—A. The gentleman who is present.

Q. Is he a producer?—A. I do not know whether he is now; he was then a large one.

Q. Was he a refiner?—A. No, sir; not to my knowledge.

Q. Was he a shipper of oil?—A. No, sir.

Q. Had he not been shipping oil?—A. Not to my knowledge; he can speak for himself.

Q. The facts that you stated in that letter you had perfect confidence in their accuracy at the time, had you?—A. I really can not tell you all that was in the letter.

Q. I do not ask you whether you recollect all that was in the letter, but whether the facts you stated you believe to be correct?—A. Mr. Patterson wrote the letter and I signed it, and with the main conclusions and deductions I agreed on, or I would not have signed it.

Q. I see in that letter you said this: "The overproduction of 1873, 1874, and 1875, and the consequent almost entire destruction of petroleum values gave the Standard Oil Company, with its organization and capital, almost the desired monopoly."—A. I think those words are in the letter.

Q. Is it true that the overproduction of 1873, 1874, and 1875 was the destruction of almost entirely the petroleum values during those years?—A. Prices were very much depressed and I believe were nearer then a fair overproduction than ever since, for that year.

Q. I ask you whether that statement that you made at that time was true in point of fact or not—whether the overproduction of 1873, 1874, and 1875 resulted in the almost entire destruction of petroleum values?—A. That of 1875 I am satisfied Mr. Patterson is mistaken about.

Q. I am not asking you about Mr. Patterson's mistake. You read this letter at Philadelphia?—A. I did.

Q. And had it taken down on the notes?—A. Yes, sir.

Q. Is that statement now correct?—A. As far as the present day is concerned, I do not think that it is.

Q. I did not ask you about that. I ask you whether this statement that you made on the 11th of September, 1877, was true, in which you said that the overproduction of 1873, 1874, and 1875 had resulted in the almost destruction of petroleum values. Was that true?—A. To a certain extent, as a matter of course.

Q. Was it true as you stated it there?—A. In 1872 and 1873 there was—one can only answer by giving you an explanation.

Q. I want an answer to the question.—A. I am giving you an answer as short as I can.

Q. You need not start with 1872.—A. In 1873 and early part of 1874, while there was a large amount of tankage in the Creek region and Butler County, where the great production was, there was not iron tankage. The oil had to be sold for what it would bring until there was a place provided for it. That destroyed prices and destroyed values. It either had to be sold for what it would bring or run on the ground, and so far I would agree with that, that the overproduction injured petroleum values. That was an expression of Mr. Patterson's opinion which I did not combat and do not now. It is his opinion; I have my own.

Q. Is that your explanation?—A. Yes, sir.

Mr. HAMPTON. The whole of the foregoing answer is objected to as not responsive to the question, and the witness is now requested to answer the following question: In the letter already alluded to, did you state that the overproduction in the years 1873, 1874, and 1875 resulted in the almost total destruction of petroleum values?

The Witness. I believe that sentence is in the letter written by Mr. Patterson which I then signed.

Q. Is that, taken as it is, there standing on that page true?—A. It don't agree with my opinion; it may be that I am mistaken.

Q. Then the representation you made to the Pennsylvania Railroad Company at that time you say is not correct?—A. It is a mere argument; it is not a matter of importance. I did not notice it there.

Q. And now I understand you to say while you did write that letter and send it to the Pennsylvania Railroad Company, and while you did put Mr. Stowell upon the

stand and have him prove the overproduction, yet that this opinion is wrong, so far as you are concerned, and that the overproduction of 1873, 1874, and 1875 did not decrease the price of oil?—A. I told you that the quantity of oil thrown on the market without tankage to put it in had the effect of depressing the price.

Q. I have not asked you as to tankage or anything connected with it; the question is directly to the fact whether the overproduction was not the cause, in your judgment, as stated in that letter, of the almost entire destruction of petroleum values in 1873, 1874, and 1875?—A. If you will tell me what you mean by overproduction I can probably answer.

Q. Will you please state what you meant by overproduction in that letter?—A. I judge that the meaning of Mr. Patterson—for I tell you frankly I did not notice it in the letter and would not have paid any attention to it if I had, as it was immaterial—was that the amount of oil was more than could be profitably marketed at the time at the place of production, and, therefore, there was an overproduction.

Q. And there being more oil than the supply called for the supply was greater than the demand?—A. It was an excess of oil at the time when it was beyond the power of the producer to take care of it, of course. A man will take any price rather than let it run on the ground.

Q. Do I understand that you and Mr. Patterson differ as to this matter of fact stated in that letter?—A. I suppose it was a matter of opinion, not of fact.

Q. Is it your opinion that it was the overproduction in 1873, 1874, and 1875 that almost entirely destroyed petroleum values?—A. I will remark that the sentiment of the letter was perhaps this, that it was an overproduction in Butler County of more oil than the market wanted then at that time and that the producers at that time had means to take care of; that created the decline in prices. I believe then the market was comparatively free and untrammelled, which I do not believe is the case to-day.

Q. Have you had occasion to examine the statistics showing the prices of oil in the oil regions from 1873 down to and including 1878?—A. I have knowledge of my own weekly sales.

Q. Have you examined the tables of Mr. Stowell?—A. Of course I have read them, but not as thoroughly as others.

Q. Is it not a fact that there has been, since 1873, a gradual decrease in the price of crude petroleum in the oil regions?—A. No, sir; it is not a fact.

Q. Name the year in which there was not a decrease in the price of oil.—A. In 1876 there was a very large advance—too high for the good of the oil regions.

Q. With the exception of the year 1876 has not the price of oil steadily decreased since 1873, as shown by the statistics of Mr. Stowell?—A. It gradually advanced from the low price reached until it reached \$4.20 a barrel, which is the highest I sold it and from that point the course has been downward. There have been fluctuations and alterations.

Q. I mean from 1873, taking out 1876, has there not been a constant decrease in the price of crude petroleum?—A. No, sir; from 1873 to 1876 there was a gradual appreciation.

Q. I understand you to say that these statistics Mr. Stowell has given us are correct?—A. I consider them so in the main, as near as they can possibly be got at.

Q. You heard his opinion upon the subject as to the price of petroleum in the oil regions being affected by overproduction?—A. I did.

Q. You heard his statement that as the overproduction increased the price increased?—A. I heard him give that opinion.

Q. At this point is it not a matter of contention, with about as many on one side as on the other, with producers that overproduction is the great evil of the oil regions of Pennsylvania to-day?—A. There is, as a matter of course, a variety of opinions; I myself, under the present state of the trade, am satisfied we produce too much. As long as the avenues of trade are blocked we ought to restrict the supply. I was willing to restrict my own drilling.

Q. In your judgment is overproduction an injury or a benefit to the producer in the sale of his oil in the oil regions at the wells?—A. The overproduction over the legitimate wants of the trade would be a disadvantage, unless there could be capital to take care of the surplus.

Q. I mean as a general proposition, overproduction is an evil, and has a tendency, has it not, to decrease the price of oil at the wells?—A. As a matter of course.

Q. So long as that overproduction continues to increase, in your judgment, there will be a consequent decrease in the price of oil?—A. There will be unless the demand is increased and the avenues of shipment facilitated.

Q. But if overproduction continues at a rate wholly out of proportion to the demand, then the price of crude oil at the wells must of necessity decrease, because there are no buyers?—A. Yes, sir.

Q. Can you state what has been the average daily production of the wells in the lower district during the year 1878?—A. I would prefer you to take Mr. Stowell's figures to my own.

Q. You believe those to be correct?—A. In the main I do.

Q. From your knowledge of the business what was the overproduction of that year as compared with the previous year in value?—A. Of what year, sir?

Q. Of 1878 over 1877?—A. There was an increase of stock at the end of the year to the amount of, I think, nearly 500,000 barrels; but I never admitted that there was an overproduction in 1878; I always asserted that there was a choking of the trade, and not an excess of production.

Q. But the fact was, the oil was not bought and taken out of the oil regions?—A. That is a fact.

Q. Can you state about what amount of oil there was in stock in the oil regions in 1878, tanked?—A. As near as I can tell, about 3,500,000 barrels; that, I consider, was about the stock.

Q. Was there any market for it?—A. A very large market all through the year; the largest ever known.

Q. What amount was carried out of the oil regions in 1878?—A. That I can not pretend to tell you; there was as high as over 1,400,000 barrels one month.

Q. I understand you to say there were upwards of 3,500,000 put in stock?—A. No, sir; there was 3,500,000 in stock.

Q. At the commencement of 1878, you mean?—A. I believe the stock at the end of the year exceeded the stock at the commencement of the year by about 500,000 barrels; that is my recollection; of course it is all a vague recollection; we depend upon statistical tables for those things, and not on our memories.

Q. Mr. Stowell's tables on that are reliable?—A. I have complete faith in them; I believe he tries as hard as a man can to get them correct; I do not believe that the amount of oil reported in the tanks is merchantable oil; there is oil reported B. S., and with water mixed with it, that to a large amount is not merchantable.

Q. To what extent?—A. I could not state; I have known large amounts of B. S., and some small; where it is carried from year to year there is necessarily a large amount of B. S., and water will accumulate.

Q. You can state whether the stock in the Bradford region in 1878, and the production, was greater than in the lower river district?—A. During the latter part of 1878, I should judge, the Bradford district produced nearly one-half, if not more than one-half, of the whole.

Q. Of the entire oil regions?—A. Yes, sir.

Q. Can you state of your own knowledge what the average daily production of oil was in the Bradford district in 1878?—A. No man could state from his own knowledge.

Q. I mean from any statistics you have, or knowledge that you have you deem reliable.—A. I would not compare my recollection with Mr. Stowell's tables; I prefer to be governed by them. I think it is over 20,000 barrels in the latter months.

Q. And can you state what was the average daily production for the river district during the same period?—A. I would prefer to be governed by Mr. Stowell's tables.

Q. In your judgment, was there not an average daily production in 1878, in the entire oil regions, of about 45,000 barrels?—A. I do not think it amounted to as much as that.

Q. Was not it very close on to that?—A. I never believed so; I may be mistaken in that; I would put it nearer 40,000 barrels.

Q. During the year 1878, what is your knowledge as to the exportation of oil from New York?—A. Nothing further than what is contained in the published tables, which we accept as correct.

Q. Was there a large demand in that year for oil for export?—A. I think that the exports would probably not reach as much as before, but I considered them as very much fettered.

Q. Was not that due in a great measure to the large stocks held abroad, the oil being bought up during 1877 and taken abroad and put in tankage, and the stock kept by refiners there?—A. I do not think the stock abroad was excessive, but not being a refiner, I would prefer to rely on the tables.

Q. Taking the tables of Mr. Stowell as correct, that the foreign stock was nearly equal to the foreign demand for refining purposes, would not it necessarily have a tendency to decrease the price of refined oil in the market for export?—A. If there was a stock there not equal to the demand?

Q. I say if the stock was not quite equal to the demand.—A. If the stock was not equal to the demand the price would advance.

Q. In other words, I want to get your opinion as to the effect the holding of large stocks abroad has upon the New York market price.—A. If the existence of very large stocks abroad prevented foreign orders coming in, of course the market would be dull.

Q. Is not the necessary tendency of this overproduction from year to year in the oil regions to lower the price of oil in the New York market, and thereby enable the foreign refiners and dealers in oil to hold large stocks at low prices, and consequently the price, for that reason, would be held down in the New York market?—A. I do not

consider that to-day there is an overproduction if the trade was unfettered and free. But, in the present state of the trade, I believe there is more oil produced than they allow to go abroad. I believe, and I have always stated, that we could to-day consume 50,000 barrels of oil a day with free, open transportation and open competition among refiners.

Q. Then it would depend upon the manufacturing power of the country, either here or in England, to bring it up to that?—A. There is plenty of manufacturing power to-day to manufacture 50,000 barrels daily if you would allow it to run.

Q. If refining was carried on to the extent that you mention, would there be, by reason of the competition, any margin of profit left to the refiner? In other words, would not it have a tendency to increase the refining capacity, and consequently the refined product, and lower the price of refined oil in this country and in Europe?—A. I have no doubt it would reduce the present exorbitant profits of the refiner; it would increase the price, I believe, to the producer, to have a free market, and it would certainly increase the revenue of the carrier.

Q. That is your opinion?—A. That is mine, and I have never varied in it.

Q. What is the price of refined in the market to-day?—A. I pay very little attention to it; it is nine and some odd cents, I think.

Q. Taking the price of crude, say at the time this bill was filed, in October last, do you know what it was?—A. No, I do not; probably not very far from where it is now.

Q. Taking it to be the same, how much would that be?—A. Somewhere in the neighborhood of 90 cents, I think.

Q. How much of crude does it take in gallons to make a barrel of refined?—A. Refiners are claiming to get over 75 per cent. Now, 75 to 80 per cent.

Q. How much more than a barrel of crude does it take to make a barrel of refined?—A. They get from 75 to 80 per cent. of refined oil from a barrel of crude, as I understand; that is what they claim, the refiners about here, at least.

Q. Do you know what it costs to make a barrel of refined oil?—A. I am not a refiner, sir; I simply know the estimates that refiners have made.

Q. I understand you do not know what it costs ordinarily to turn crude, the quantity you have stated, into a barrel of refined?—A. I understand that refiners here charge about a cent and a half or a cent and a third.

Q. Can you, by a calculation, tell me what profit there is, if any, in the making of refined oil to-day at the price crude is, and the price it is sold in market?—A. To any one paying the open rate of freight there would be a heavy loss, but with a \$1.10 rebate on a barrel there would be a heavy profit.

Q. I understand you now that you are not familiar enough with refining to tell me what it would cost to make a barrel of refined oil, together with the cost of the barrel?—A. I say that I can get responsible parties to agree to do it for about 1½ cents, and guaranty 75 per cent.

Q. I want to know, if you can tell me, what it costs to manufacture a barrel of refined oil at the rate crude was last fall, including the cost of the barrel?—A. Nothing further is required than to work out that formula; you can get it done for that; men are glad to do it for that, and I suppose they are making a profit on it.

Q. You say you can not tell what it costs to manufacture a barrel of refined oil out of crude, including the cost of the barrel?—A. I am not a refiner.

Q. Then you do not know, at the price of crude to-day, what, in point of fact, a barrel of refined oil costs the refiner?—A. I have seen them figure twenty times to try to ship at the open rates, and always fail; I know I could get my crude oil converted into refined at the rate I have stated; men would put up refineries to do it at that price.

Q. You have stated in your examination-in-chief that you were entirely familiar with the oil business. I want to know if you can tell me to-day what it costs to make a barrel of refined oil?—A. I know that it costs less than 1½ cents a gallon, giving 75 per cent. of refined product.

Q. Taking the open rate and the price of crude, what profit, if any, is there to the refiner?—A. There is a loss.

Q. Of how much?—A. I can not say exactly; I think 40 or 50 cents.

Q. A barrel?—A. Yes, sir.

Q. Have you ever made a calculation so as to arrive at a conclusion on the question I have submitted to you?—A. I have gone over the figures with other parties and examined them; the last time—I can tell you when I did it if you wish.

Q. I wish you to state, as a practical question, even with what you call a rebate of \$1.10, does the refiner make anything?—A. They say they make largely.

Q. How much a barrel?—A. At 60 cents a barrel it is the best business in the world.

Q. But does he make anything; can he make anything even with that rebate?—A. I believe he can.

Q. Have you ever ciphered it out?—A. Not with that rebate, for I didn't know that rebate at the time.

Q. Are you willing to work out that proposition at some other time?—A. I am willing to have it done by some one more competent than I am. I always believe that the New York market is manipulated to a great extent by the Standard Oil Company, and it is to their interest to keep the profit within that rebate to drive the independent refiners out.

Q. Do these refiners in New York buy very largely in the oil regions?—A. All I learned of their business is their testimony; I listened to that.

Q. You understand they pay the open rate?—A. They swore so; that is all I know about it.

Q. Those refineries are still running, and have been, are they not?—A. To a certain extent, I guess they are.

Q. Do you know the amount of oil that they monthly manufacture and put upon the market?—A. I do not.

Q. Don't you know that they can sell all the oil that they make?—A. I don't know anything about their business further than they testified.

Q. State whether the machinery and appliances employed for the refining of crude petroleum are not very costly?—A. They are costly, but much less than they used to be; they are much simpler than they used to be.

Q. Have you any idea what a refinery to run out 500 barrels a day would cost to put up and operate it?—A. That would be 3,000 a week. I suppose it could be built in good order for from \$30,000 to \$50,000; very much less than it used to be. It would probably require three 500-barrel stills.

Q. Can you give me an idea what the percentage of profit is of the New York manufacturers, taking that refinery that I have stated to you and that you have estimated the cost of, on refined oil that they make and turn into the market?—A. I know nothing about their business; I have never figured about it.

Q. Is it not a fact that the profit derived from the refining of oil is much greater in proportion to the plant than any other mercantile business in the United States, taking rolling-mills, iron-mills, steel-works, glass-works, locomotive-works, car-shops and the like?—A. You can turn out a much larger yield from the stock than out of any other manufacture.

Q. The point is this: Is not the profit upon the manufactured article far greater in proportion to the amount of money invested in the production of that manufactured product than any of those manufactures I mentioned?—A. Not when they sell goods at a loss, as they have been doing.

Q. Taking what I gave you, as a refinery turning out 3,000 barrels a week and built at a cost of between \$30,000 and \$50,000, is not the manufacturer's profit on it far greater in proportion than on the manufacture of the articles I have named?—A. The manufactured result is far greater; as to the profit, I know nothing about it.

Q. Is not the cost of producing the raw material, to wit, the oil, far less than the production of iron ore to make iron, or timber to convert into cars, or the elements that enter into the formation of glass, and the placing of them where they are to be manufactured into the product that afterwards appears in the market?—A. Not when we take into consideration the necessary elements of the purchase of the property, the risk of loss, and the getting of dry holes. You start a well, and until you reach a certain depth you do not know whether it is a total failure or not.

Q. Suppose that you get oil just enough, as a producer, to enable you to turn out 500 barrels a day of refined product, is not that raw material, the oil, furnished to you at a much less cost than the raw material is furnished to other manufacturing establishments such as I have named?—A. You might as well ask if a man who draws a prize in a lottery gets his money easily. The man that succeeds will get well paid, but the man that fails of course meets with a total loss. The general producer has to take the average between the two extremes of success and failure.

Q. But taking it as an average, is not it a fact that the successful man in the oil business, with crude sufficient to run his refinery, makes more money on the product than the other manufacturers I have referred to?—A. You are talking about refiners; I have been talking about producers all the time.

Q. I ask you if the profit he gets on his refined does not far exceed the profit on articles that are manufactured ordinarily at places such as I mentioned?—A. I have told you I know nothing about the average profit of the refiners.

MR. ACHESON. I object if he does not know anything about the business.

THE WITNESS. I do not know the profit of refiners; I have never been in the business.

MR. HAMPTON. He has undertaken to say that on account of rebates there were enormous profits in the business. Now I want to see whether he has any facts to sustain him.

THE WITNESS. I can sustain that very easily.

Q. When you say that there are enormous profits to people who get rebates, do you make that statement without any fact to sustain you?—A. Most certainly I do not. Take the refinery you drew my attention to, which turns out 3,000 barrels a week.

The evidence in the case shows that a rebate of \$1.10 is allowed on that. There would be a revenue on that of \$3,300 a week, independent of the ordinary risks of the business.

Q. I understand you to say that with that rebate you can make money?—A. Certainly; if you will give me a rebate of \$1.10 I will give you a refinery as soon as I can get it up.

Q. Do I understand you that a rebate, if allowed, affects the price of the oil in the market?—A. Most certainly, sir; by driving out all successful competition by those not receiving the rebate, and giving the producer of crude but one practical buyer for use. The buyers, as I told you before, of the certificates on exchange do not take it out of the tankage or country, and it is liable to be thrown back on the market the next day. Shippers, for use, get rid of the oil so far as that is concerned. I will make it as plain as I can to you.

Q. Now, let me understand you. If you, then, were allowed a rebate of \$1.10 on the transportation of the oil, you undertake to say that you could make money at the business of refining?—A. Most assuredly; it would put me on an equality, then, with the others doing business.

Q. That is, if you are not mistaken?—A. I would have to take the chance.

Q. Although you do not pretend to know anything about the refining business?—A. I know near enough.

Q. If it could be demonstrated that a \$1.10 rebate on the oil would not enable you to make anything then your whole theory goes to the ground?—A. Yes, sir; provided that the party receiving the rebate is not one that puts the market where it is for a special purpose.

Q. Have you ever been engaged in the refining of oil yourself?—A. No, sir.

Q. You do not pretend to be familiar with the practical operations of a refinery?—A. Not so far as to attend to the practical details of it. I understand the business generally.

Q. Do you know the present tankage capacity of the Bradford district?—A. I do not; it is represented as large, but I do not know what it is; over 2,000,000 barrels, I think.

Q. Have you ever directly undertaken to ship oil by the Pennsylvania Railroad lines to Philadelphia?—A. No, sir; the only direct shipments I made were down the Valley Road at one time.

Q. In the year 1877, or 1878, or 1876, did you make any application to the Pennsylvania Railroad for the transportation of your oil East?—A. No, sir.

Q. Were you in the oil regions in business there?—A. Yes, sir.

Q. Through whom did you make your shipments of oil?—A. What year?

Q. During all those years?—A. During 1878, up until the fall of 1878, the time of the sale, my previous habit before that had been generally to sell to the Empire line; that was my general or usual course; they bought oil on their own account.

Q. Did they sell in the New York market?—A. They ship to New York and Philadelphia—ship their oil East.

Q. You have spoken about the Empire Transportation Company in your examination-in-chief. Was there any difference made as to rates made by the Empire Transportation Company and by the Pennsylvania Railroad after it got possession of the Empire line—after it, I mean, ceased to have possession of the Empire?—A. Rates where?

Q. To New York from the oil region. In other words, were there not rebates allowed by the Empire Transportation Company?—A. I can not speak of my own knowledge; I can speak of what the parties say, the parties receiving them state; for instance, the New York refiners testified that until the 1st of May they got a rebate of 10 per cent.

Q. Had you not yourself with the Empire Transportation Company a contract, you being one of two or three parties that got a pretty large rebate?—A. Not one cent, directly or indirectly, either present receipt or promise in the future. I am very glad you asked the question. Without any reservation, or concealment whatever, during the whole time that I did my business with the Empire line I never asked it, it was never offered to me, and I never received it. I can not be plainer than that.

Q. Did you always ship by the Empire Transportation Company?—A. I piped; I did not ship at all; I piped through the Empire.

Q. All your oil?—A. Generally.

Q. How else?—A. I did some business with the Karna Pipe Line; one time I did some little business with the Relief, and some with the United; I also did business with Parker & Thompson, the predecessors of the Empire, and continued with the Empire.

Q. Do I understand you that you never had a contract with either the Empire Transportation Company or the Empire Pipe Line by which you were allowed a rebate on crude oil at all?—A. I had a contract with them, but never a contract where

I was allowed a rebate of one cent. I stated in my examination-in-chief that I had a contract with them.

Q. Had you a contract in writing for a lower rate of freight than the open rate charged?—A. I had not, sir. I would be very glad to show you the contract if I had it here. I can tell you all that was in it.

Q. Have you no recollection of having entered into a contract in writing with either of those companies for a rebate, or at less rate of freight than the open rate?—A. I never did enter into such a contract. I have a particular recollection of the contract I did enter into.

Q. What was it?—A. It was a contract between the Columbia Oil Company, myself, and R. P. Crawford, I think, on the one side, and the Empire Transportation on the other.

Q. Well, that was in writing, was it not?—A. Yes, sir; I do not know where a copy of it is; I will have one hunted up if you will like to see it.

Q. State what it was.—A. Wherein the Empire Transportation, as we agreed to run out oil through their lines, they were to pay us for our oil a price based on the price of refined oil in the city of New York; they were to refine it, and pay a price based on the price of refined oil in New York, they having their own refineries; there was a limit put at a price at which this sliding scale should take effect; that limit never having been reached—

Q. You got no rebates?—A. The contract was inoperative.

Q. Go on.—A. Shortly after that contract was entered into I made the arrangements with Mr. Potts, that I have already detailed, for a new contract, in which all producers were embraced, which, if signed, would have superseded this.

Q. Did you enter into an arrangement that if refined oil had gone beyond a certain limit you would have been allowed a rebate?—A. No, sir; I was allowed a price for my oil.

Q. But in the end that was substantially a rebate?—A. No, sir; certainly not; the contract was open; everybody knew it when I made it; after it fell into the hands of their successors, the United Pipe Lines, I terminated it as soon as I could; it was to run until terminated on notice; I gave notice the first practicable day.

Q. Have you since the Pennsylvania Railroad Company became the owner of the Union Line asked for cars for the shipment of your oil East?—A. I have not; I am not a refiner.

Q. As far as you are concerned personally, you have no complaint to make of the Pennsylvania Railroad as to furnishing you cars?—A. No further than the refusal to furnish customers for oil—buyers of oil.

Q. You, yourself, never went and made a demand to have any cars placed at any loading-rack for any customer?—A. No, sir.

Q. I understood you to say that you sell your oil at the wells?—A. Practically at the wells; the pipage follows.

Q. The oil is piped by the company to their receptacle, whatever it is, and a certificate is given by the pumper for the amount of oil that comes from the well?—A. A ticket; yes, sir.

Q. Then you have nothing more to do with that oil?—A. No, sir; you get credit for the amount of oil represented by the ticket.

Q. And when you make a sale of the oil you do not look further after it—having nothing more to do?—A. No, sir.

Q. The shipment of the oil belongs entirely to the buyer, and the producer has nothing to do with it?—A. Not unless he ships his own oil, as some do; a majority do not. It is a separate business.

Q. Are there not a great many producers who have loading racks of their own?—A. Not when reached by a system of pipe lines; in early times the oil would be loaded at private loading racks; to-day the railroad lines connect with those kinds of pipes where they can not compel them to attach to a pipe line.

Q. In what counties have you producing wells, and near what lines of railroads?—A. I have producing wells in Butler, Armstrong, Clarion, and Venango Counties.

Q. What pipe lines are in those counties?—A. Practically only two pipe lines for general use, the United Pipe Lines and the American Transfer, which is doing but a limited business.

Q. Are there not other pipe lines?—A. None of any but mere local repute, that no one knows anything about, that run from individual wells and are classed as individual lines.

Q. What is the distance from your wells to the railway?—A. They vary very much—from 15 miles to 1.

Q. What is the average distance of your wells from the railroad?—A. They are spread all through that district.

Q. Have you ever attempted to build pipe lines from your own wells?—A. No, sir.

Q. Along with other producers?—A. No, sir. I foolishly thought that part of the business would not amount to anything.

Q. The producers are men generally of abundant means, are they not?—A. They have been in times past; not very much so to-day.

Q. They have not built any pipe lines, have they? A. They built a number of pipe lines.

Q. And they are operating them, are they not?—A. No, sir; all their main lines have been frozen out.

Q. It was a hard winter that froze them out?—A. It is a long process, continuing summer as well as winter. I was a stockholder in the Karns Line.

Q. Apart from the United Pipe Line, is there not the Pennsylvania Transportation Company?—A. The H. M. Taylor & Co. Lines.

Q. How close to your wells does it go?—A. I have some very close to them.

Q. It is a corporation?—A. Yes, sir; run by a receiver with limited means.

Q. Have you ever tried to compel the Pennsylvania Transportation Company to carry your oil?—A. No, sir; I have not.

Q. You understand it is a common carrier, don't you?—A. I never read their charter.

Q. It is an incorporated company?—A. Yes, sir; it is in the hands of a receiver.

Q. It is still running oil?—A. For limited purposes as ordered by the court.

Q. Is there not a Foxburg Line?—A. They run their own oil almost exclusively.

Q. Oil solely from the Fox farm?—A. Almost exclusively; they are not seeking connections outside of it.

Q. Is that a private line, or under a charter?—A. I understand it to be a private line.

Q. Is there an Emlenton Line?—A. It is a private line.

Q. And a Baum Line?—A. That is a private line.

Q. That is your understanding?—A. Well, I believe so; I have heard Mr. Baum talk about his line.

Q. So that in addition to the United Pipe Lines, with which you connect, you have also the Pennsylvania Transportation Line near you, which is a corporation?—A. Near some of my wells.

Q. And you have never attempted to get that company to pipe your oil?—A. I have asked them if they were ready to take any of my oil, and they said not. The reason is they have to sell their oil to outside buyers only, who in their turn have to pay full freight, and therefore they can not get a market for only a certain amount of oil; they have to sell to parties who are charged \$1.40 to New York from the mouth of the pipe.

Q. Are they this independent combination, as you call it, of outside refiners?—A. The outside parties and refiners are the only parties that will buy their oil. There were originally a great many pipe lines in this region, but one after another were forced into a sale to the United Pipe Lines by the same squeezing process.

Q. Have the producers ever attempted to build pipe lines?—A. They have repeatedly, but as long as one pipe line has control of the freight rates on the railroad it is impossible for an independent line to live; the two are so intimately connected that they can not be separated.

Q. But the producers have never undertaken to build a line that will serve their purpose?—A. Yes, sir; they have repeatedly. I made one mistake in answering a former question. I had \$500 of stock in one line; not in my own name, but that of a well I own: it was lost finally.

Q. State whether or not the United Pipe Lines are not composed of producers in the oil regions?—A. There are a few producers in it.

Q. At the time you say the United Pipe Lines froze the other lines out, were not the lines that that company obtained control of practically bankrupt when they did so, and had they not wholly failed to make anything out of their investment? Was not that the condition of things when the United Pipe Lines took hold of them?—A. By the fact of the control that the United Pipe Lines and its owners had over the freight rates, by the fact that the Standard Oil Company has always shown itself willing to lose any amount of money to crush out an opponent, they crushed them out.

Q. What time did the United Pipe Lines commence to have control of those lines?—A. The best line and the best managed we had was the Union Line, built by the Empire Transportation Company; that was obtained control of when the Empire Pipe Line was sold to the Empire Refineries, sold to them and nominally conveyed to the Pennsylvania Railroad, and a mortgage placed on them in favor of the Standard Oil Company; that was the best pipe line we ever had in the oil region.

Q. If I understand you correctly your assertion is that the price of oil at the wells to the producer is kept below what it otherwise would be by the fact of the United Pipe Lines and the railroad companies combining in fixing a rate of freight; is that your theory?—A. I believe that owing to this general combination we are prevented from having proper competition to sell our oil.

Q. Suppose, as stated in your letter to Thomas A. Scott, there is this constant over-production such as occurred in 1873, 1874, and 1875, tell me what influence the rate of

freight would have on the price of oil at the wells, when there was no demand for the oil?—A. The cheapening of the freight on oil would of itself induce increased shipments to foreign countries, and the hunting up of new markets for the product, and creating a demand which would remain if once obtained; the oil once introduced into use they would always have it, and this in its turn would benefit the producers.

Q. That is a theory on your part, is it not?—A. That is my belief.

Q. But do you believe as a fact that if the rate of transportation was one-half to-day what it is between the oil regions and New York it would have the slightest effect on the price of crude at the wells?—A. I have no objection to the freight if it is uniform; even a uniform freight would be an advantage to us in the price of oil at the wells.

Q. Suppose the rate of freight is just one-half of what it is from the wells to the sea-board, would that, in the condition of the market where there is a constant oversupply, have any effect whatever on the price of crude oil at the wells?—A. A uniform reduction would be an advantage, because it would cause competition.

Q. If I understand you it is not the rate of freight that is objected to?—A. Not at all; I never objected to that in my life.

Q. But your theory is that it is the preference which may be shown to one party over another?—A. That is my belief entirely; you have got it exactly straight.

Q. So that even with overproduction, I understand you to say, and the supply far exceeding the demand, you claim that a uniform rate of freight would enhance the price of oil at the wells?—A. It would be a great service to the country; it would increase the foreign demand and enhance the price at the wells by putting competitive buyers in the market.

Q. But it would take those conditions to do it?—A. Yes, sir.

Q. But I mean just taking one-half the rate away from what it is to-day, would it increase the value of oil at the wells?—A. Most certainly it would to a certain extent.

Q. If there is this oversupply?—A. There is a constant demand as well.

Q. Taking Mr. Stowell's tables to be correct, and also your letter stating that in 1873, 1874, and 1875 overproduction was the cause of the almost entire destruction of petroleum values during those years, I ask you if that is true, as written to Mr. Scott, and Mr. Stowell's figures are correct, how could it affect the price of oil at the wells, supposing the rate of freight from the wells to the seaboard was one-half or what it is now?—A. I have stated half a dozen times that I do not believe in 1877 and 1878 we had a production over the wants of the world. If the market was free, of course we would have to take a lower price, but we are willing to take that part of the business. I wish to say that it is not the rate of freight we complain of, but it is the inequality of the rate of freight charged, giving advantages to one party over another, whereby they can control the market.

Q. That is the complaint of the producers?—A. The same spirit animates all. If we produce too much oil when the trade is free and open, more than the wants of the world require, a lower price will come, but we are willing to take that price; but we do not want any guardian for the petroleum trade.

Q. That is your theory?—A. That has been my theory; I have been very consistent in it.

Adjourned to meet to-morrow, February 22, 1879, at 10 o'clock a. m., at the same place.

PITTSBURGH, PA., February 22, 1879.

Met at 10 o'clock a. m., at Monongahela House, pursuant to adjournment.

Present: The master, John H. Hampton, esq., for the Pennsylvania Railroad Company, and M. W. Acheson, esq., and George Shiras, jr., esq., for the Commonwealth.

B. B. CAMPBELL was recalled, and his cross-examination continued by Mr. Hampton, as follows:

Q. If I understand you correctly, and the parties with you who have caused these proceedings to be instituted by the Commonwealth, your complaint is not that the railroad companies charge too high a rate of freight at any given time, but that they have no right to discriminate in their rates as between customers?—A. That is the position I have always maintained. The open rate is a high rate, probably a little higher than could be safely imposed without stimulating the production in other countries; but we have never complained about the rate of freight, but simply that other parties were given such an advantage that they have obtained the monopoly of the refining business. We therefore had but one refining party to sell to; we could not get the benefit of a competition of buyers, and we could not, if dissatisfied with the bids of any or all, erect our own refineries and refine our own oil.

Q. So I understand the producers represented by you, and their interests set out in the bill filed in this case, deny to the Pennsylvania Railroad the right altogether to

discriminate as to the rates of freight between its customers?—A. As I understand, we deny the right to discriminate to such a degree as to give any party receiving those rebates the monopoly and control of our trade.

Q. Do you deny in toto the right of the railroad companies to discriminate among customers?—A. Our attorneys advise us that there is no such right; we are governed by their advice in that matter.

Q. Prior to filing the bill in this case, before you consulted your attorneys, was it not a proposition maintained by yourself and other producers in the oil regions that the railroad companies had no right whatever to discriminate as between classes of freight?—A. My own belief is that all parties bringing freight to a railroad in wholesale quantities should be treated alike; for small amounts, or amounts less than a car load, I do not consider they would be entitled to the same. But where freight is tendered by one party in large lots he should have his freight carried at as reasonable terms as others has always been my belief.

Q. Does that apply to what is called the local business of the lines in Pennsylvania as well as to what may be termed the interstate traffic between the oil regions and New York, Philadelphia, and Baltimore?—A. Of course this is merely my opinion, but I am very willing to give it to you if of any value. I believe that in no case should a larger amount be charged for a short haul than for a longer haul. Within those limits the longer haul should be protected, but that no greater amount of freight should be charged by a railroad for carrying the same amount of goods a less distance than for carrying it a greater.

Q. Then your view is, as between oil delivered to local points in Pennsylvania and oil delivered to points in other States than Pennsylvania, there ought not to be any difference in freight rates?—A. The amount of the freight to a local point should not be higher than to a more distant point.

Q. State what has been the competition between the New York railway lines, and when it commenced, for the business of the oil regions?—A. I can not speak with any definite certainty about the early years, because I was not then connected with the petroleum trade.

Q. State since the time that you first had knowledge of that competition and to what points it was?—A. The Northern roads, I believe, reached the oil regions, both the New York Central and the New York and Erie, by branches to the creek; I can not describe them to you exactly or the locality, but they early reached there and competed for the oil business to New York.

Q. With what company?—A. The Pennsylvania Railroad Company, which had the shortest and most direct route.

Q. Was there also a competition from Buffalo by canal for the transportation of oil to New York and the seaboard?—A. Not directly to the oil regions; that would be for the manufactured article, after it had been taken from the oil regions to Cleveland.

Q. There was that competition by canal for the transportation of oil eastward?—A. In the early days I believe there was; I have been told so; I do not know of my own knowledge.

Q. Does not it continue yet?—A. Not for the refined oil.

Q. Does it for the crude?—A. Last summer the independent refiners of New York built a lot of bulk-boats, and carried some oil when they were refused cars—also lately refused cars by A. J. Cassatt. I never saw one of the canal-boats; and therefore the whole thing is on the same basis. They were absolutely refused cars on the roads running out of the Bradford district that were controlled by the Pennsylvania railroad. Answer was given that no railroad—

Q. Are you stating this from your own personal knowledge?—A. I am stating it just as you have asked me in your questions.

Q. Oh, no.—A. Then I will have to refuse to answer almost all your questions.

Mr. ACHESON. You asked him about the transportation by canal from Buffalo, and he has a right to go on and state all he knows on that question.

Mr. HAMPTON. Not from hearsay against my objection.

The WITNESS. I do not wish to give a part of a statement without giving the whole. Mr. ACHESON. You had better say that your whole information touching this canal traffic is derived the same way.

The WITNESS. It is derived in the same way, sir.

Q. What points in the oil regions do the lines running from the New York railways reach for the purpose of receiving the oil and transporting it?—A. At the present time I can speak with a great deal more definiteness about that. I believe the United Pipe Lines take the oil to Harrisonville by the way of Raymilton, where the oil is transported to Cleveland. They also carry by pipe to Oil City from the Butler and Clarion regions.

Q. What points in the Bradford district do any of these roads reach?—A. Olean, on the New York and Erie—

Q. Salamanca?—A. I think there is a pipe line there.

Q. Can you state of your own knowledge personally what has been the character of the competition between the New York roads and the Pennsylvania road since it commenced for the oil traffic to the seaboard?—A. Of late years the only competition I know of between them was during the spring and summer of 1877, when the Empire Line and the Pennsylvania Railroad Company managed their own oil business, bringing the oil from the wells through their own pipes to the line of their own railroads and carrying it in their own cars to their own refineries. Before that time and since I do not consider that there was any competition between the roads, but that the traffic was pooled.

Q. Apart from this pooling process, have not the New York roads constantly endeavored to take that trade from the Pennsylvania Railroad and carry it to New York?—A. Except that time, the time that I know of the business of my own knowledge, I do not consider that there was a competition; I consider that the trade was divided; but as a matter of course they must have competed, or there must have been some agreement, or they would not have been yielded their pro rata of the freight.

Q. You think the New York lines persevered until they did reach the oil regions and get a part of that business?—A. Certainly.

Q. State whether the Pennsylvania Railroad did not at one time make a very determined stand against the traffic going by the New York lines to New York?—A. It did, sir.

Q. How long did that warfare continue?—A. Three or four months.

Q. What was the result as to rates during that period?—A. From the best information I could get the road got a better rate on a large quantity of oil than she is getting to-day.

Q. I mean the rates proper; were they lowered?—A. The oil was bought in the oil regions by the competing parties; they carried their own oil.

Q. Do you mean the railroad companies?—A. Yes, sir; through the Empire Line; they bought oil in the oil regions, carried it to the sea-board, and refined it themselves.

Q. You say the Pennsylvania Railroad bought oil?—A. Through the Empire Line.

Q. Do you swear that?—A. Through the Empire Line they bought oil.

Q. Do you swear the Pennsylvania Railroad bought oil?—A. Not directly, I suppose; but the rate of freight depended upon the result of the traffic.

Q. During that competition of three months and this fight that they had were not the rates of freight lowered from what they were before?—A. The nominal rates of freight were not lowered; what they actually were I do not know; but I know that the oil was bought by the transporter, and he had the risks of refining; on both sides they were bidding against each other in the field for the oil.

Q. Do you know as a fact that during that competition and contention, which lasted about three months, the Pennsylvania Railroad lost in transportation over a million of dollars?—A. I do not, sir; on the contrary, I believe that by abandoning it she surrendered her whole control of the oil trade, and is to-day a pensioner at the hands of the Standard Oil Company.

Mr. HAMPTON. The foregoing answer objected to as the repeated and often stated declaration of the witness on the stand, being no part of his evidence, but merely a remark upon his part unsupported by facts.

Q. What other competing lines were there besides the New York railroads on the north for the business of the oil regions to the sea-board?—A. None north that I know of.

Q. State whether the Baltimore and Ohio Railroad has not been for some time getting a very considerable amount of business out of the oil regions.—A. That is on the south.

Q. I mean in addition to those on the north.—A. Yes, sir.

Q. About what time did the Baltimore and Ohio Railroad become a competitor for the oil trade with the Pennsylvania Railroad?—A. At the time of the building of the Conduit Line.

Q. That was in what year?—A. I can not recollect.

Q. Eighteen hundred and seventy-four, was it not?—A. I could not remember the date—1874 or 1875; it lay idle nearly a year.

Q. From that period until this time the Baltimore and Ohio Railroad has been enjoying a portion of that business, has it not?—A. A small portion now.

Q. Is there not a considerable quantity of oil carried by that railroad, by the Pittsburgh and Connellsville line?—A. There has been a small portion, I understand, allotted to her by the Pennsylvania Railroad.

Q. So that in addition to the competing lines on the north there is the Baltimore and Ohio, by the Pittsburgh and Connellsville connection, competing with the Pennsylvania Railroad for the business?—A. Yes, sir.

Q. Do you know anything as to the rates of freight over the Baltimore and Ohio Railroad for the transportation of oil to Baltimore?—A. No, sir; I do not know of my own knowledge.

Q. Does it act independent of the Pennsylvania Railroad and seek to get oil in the oil regions?—A. I think not, sir; in fact, I know not; her cars are sent up on the line of the Valley road, which they were not allowed to do before, and are there loaded—sent on the line of the Pennsylvania Railroad connections.

Q. So that a portion of the trade of the Pennsylvania Railroad is diverted in that way to Baltimore?—A. Yes, sir.

Q. That leaves the Pennsylvania Railroad and its lines between these competitors north and south, both competing for the trade that belongs exclusively to the Pennsylvania?—A. Yes, sir; but she has much the shortest and best appointed route for carrying it.

Q. Why was it that the Baltimore and Ohio road was not included as a defendant in this bill, if there be the combination that is charged to exist between the railroads named in the bill?

(Commonwealth's counsel objects to this question.)

The WITNESS. These bills were prepared by the attorney-general, and it would be manifestly impudent and improper for me to attempt to answer the question, I not representing the Commonwealth in any shape.

Q. Did the attorney-general, to your knowledge, prepare these bills?—A. I do not know whether he prepared them; I was informed that they were submitted to him and met his approval.

Q. Where were the bills prepared?—A. That I can not tell you.

Q. Where did you first see the bill filed against the Pennsylvania Railroad Company?—A. I judge that the bills were probably prepared in Mr. Sherman's, Mr. Shiras's, or Mr. Acheson's office, and then sent to the attorney-general for approval.

Q. Did you see it before it was forwarded to the attorney-general for approval?—A. Not in a completed form.

Q. Substantially so?—A. I believe so, one of them—only one of them.

Q. Was it the one against the Pennsylvania Railroad Company?—A. I think it was.

Q. Did you observe at that time that the Baltimore and Ohio Railroad was not named as a defendant in the bill?—A. I do not remember that I ever mentioned the matter to any of the parties connected with it.

Q. The question is, whether you observed at the time that the Baltimore and Ohio Railroad was not mentioned?—A. I very probably did.

Q. You were present with the gentlemen and consulted with them, as you had a right to do, constantly before that bill was sent to Harrisburg?—A. No, sir.

Q. Who was?—A. I can not tell you.

Q. Was Mr. Sherman?—A. I can not tell you that. All I saw of the bill was a rough draft Mr. Sherman prepared. There were material alterations made in it. Who did it I can not tell.

Q. Who employed Mr. Sherman?—A. I had the honor of suggesting to the Attorney-General the names of the counsel that represent the Commonwealth, and they were accepted and adopted by him.

Q. Then you employed Mr. Sherman and Mr. Shiras and Mr. Acheson?—A. And Mr. George A. Jenks. I asked if they would be agreeable associates, the Attorney-General having stated that it would be impossible for him to manage the case, he not having the time nor familiarity with the subject.

Q. As connected with the filing of the bill in this case, please state, Mr. Campbell, what you know in relation to the petition that was presented to Hon. William McCandless, secretary of internal affairs of the Commonwealth of Pennsylvania, dated Titusville, Pa., September 19, 1878, at the rooms of the Petroleum Producers' Union, and signed by James H. Caldwell, James F. Imel, Chauncey F. Lufkin, James Partill, Lafayette J. Kerr, and Erastus H. Dyer, and sworn to by the parties that I have named.—A. I do not know who prepared that; I believe I know who did it, but I do not absolutely know; I believe it was prepared by Mr. Sherman; I do not know that fact.

Q. Roger Sherman?—A. Yes, sir; he is the regular counsel of the Producers' Union.

Q. This, then, I understand you, was a movement by and on behalf of the Producers' Union?—A. In furtherance of our attempt to get open trade, sir; we did not succeed as well as we might.

Q. Will you state whether Mr. Erastus H. Dyer is a refiner or producer?—A. He is a producer.

Q. How large a producer?—A. I do not know anything about Mr. Dyer's productions; he is a gentleman I know and respect very highly.

Q. Is he not a very small producer in the sense of producing oil?—A. Men's productions vary greatly on account of their wells running down. I know he is a producer in Clarion, and probably produces in Bradford.

Q. Do you know Lafayette J. Kerr?—A. I do not know Mr. Kerr.

Q. Is he a producer?—A. I do not know him.

Q. Do you know James Partill?—A. I do not know him.

Q. Do you know Chauncey F. Lufkin?—A. I do not know Mr. Lufkin.

Q. Do you know whether he is a producer or not?—A. No, sir.

Q. Do you know James F. Imel?—A. I do not know him.

Q. Do you know James H. Caldwell?—A. I know him very well; he has always been a large producer.

Q. So far as your knowledge extends, he is the only man that signed that petition who is a producer to any considerable extent?—A. I say Mr. Dyer is a producer. One of these gentlemen I have been introduced to; if you want what I have been told, I can tell you that. There is one of them I know, but I do not know which.

Q. At the time this proceeding was instituted, how many persons, to your knowledge, were really consulted or engaged in the getting up of this petition to the secretary of internal affairs other than those who signed it?—A. It was a part of the recognized proceedings that were to be taken by the Producers' Union, as I understand it.

Q. So that it resulted from the Producers' Union of Titusville?—A. Acting through our council. Our council directed the institution of it, and we adopt and sustain what they do.

Q. Was there money raised to carry on this investigation?—A. There has been, sir.

Q. What amount?—A. That I can not tell you.

Q. As near as you can tell?—A. I should judge the expense to the present time would reach \$3,000 or \$4,000. I am very short of money now, and very anxious to make further collections. I am ashamed to see my counsel every day on account of the beggarly amounts I have paid them.

Q. You mean the counsel in this case and not the council in Titusville?—A. I mean the associate counsel in this case. I do not think he has fared any better.

Q. How many people have subscribed to carry on this warfare?—A. A very large number. A large number have subscribed that have not paid. The most of the subscriptions are small amounts. Collectors were appointed in every town in the oil regions, and they went to work and collected from everybody that would contribute. The universal complaint we find is the poverty of the people, and not their unwillingness to give.

Q. As near as you can tell, how many people have backed this prosecution of the Pennsylvania Railroad?—A. It is utterly impossible for me to tell. I acted as local collector in one district, and I have on my books, I suppose, one hundred and fifty names in one local district.

Q. Are they producers?—A. The bulk of them were either producer or pumper on lines, or men connected with the oil business.

Q. Have your subscriptions been confined to the oil regions of Pennsylvania?—A. Any man I could get who proposed to assist in opposing rebates, I asked him for money, and I am not backward in asking.

Q. Have the refiners in New York, who do not pay a dollar of tax in this Commonwealth, subscribed anything?—A. They subscribed \$500, which I attempted to collect for four months; but when I found that you kindly made them promise to pay it, I drew on them at sight in Philadelphia and used it in the expenses of the investigation.

Q. Then you are indebted to me on the cross-examination of these witnesses of the Commonwealth for getting them to say, first, that they had promised to pay; and secondly, that they would pay; and thirdly, on getting that information you drew on them and got the \$500?—A. Yes, sir; not that they would not pay, but in the hurry of business they had neglected it.

Q. Such was their backwardness that if I had not come to your aid you would not have got the money?—A. I would have worried it out of them, but I thank you all the same.

Mr. ACHESON. I suppose you do not mean to say that those gentlemen are not interested in the oil-producing regions of Pennsylvania.

The WITNESS. By no means.

Mr. HAMPTON. State who the refiners were that gave the \$500?

The WITNESS. I was not present when that examination occurred. I read it in the first edition of an evening paper. I then hurried back to find them, but they had left for New York. I then telegraphed, I think to Mr. Bush, "Will you pay my draft of \$500?" He telegraphed back to draw on Lombard & Ayres. I drew on them for the \$500, and on the face of the draft I stated the object, "To pay your subscription to the expenses of the investigation in the oil-discrimination cases before Hon. J. B. Sweitzer, master."

Q. Do you expect to get any more money from them?—A. I told Mr. Ohlen if I got in a tight place I would draw on him for \$250 more.

Q. State whether those gentlemen own wells in Pennsylvania?—A. That I can not tell you.

Q. They are refiners in New York, are they not?—A. Yes, sir. They should bear the lion's share of these expenses, as they are deeply interested, as the testimony shows; but I can not make them see it.

Q. Were some of these subscriptions paid before these proceedings were commenced in court and before the commissioner of internal affairs against the Pennsylvania Railroad?—A. When we determined to commence proceedings and invoke the aid of the law, which we were told was ample to protect us, some money was appropriated to pay counsel. But I soon found that the Producers' Council was out of money and it would be useless to depend upon that source, and I urged that collecting committees should be appointed in every town in the oil regions; and I have urged on every occasion that these committees should do their work, as we are compelled to furnish the money for the expense of taking the testimony, the traveling expenses of witnesses; and the associate counsel of the Commonwealth have no other source to look to for any compensation for their labors, the attorney-general telling us he has no funds at his disposal which can be applied to these expenses.

Q. When you were planning this mode of proceeding against the Pennsylvania Railroad, state whether there was anything resolved upon as to undertaking proceedings against the New York roads, whose lines reach down into the oil regions?—A. There was, sir.

Q. State if that was the proceeding commenced by Mr. Ohlen in New York?—A. No, sir; that was entirely independent; over that we had no control nor any part in it.

Q. What is the proceeding you refer to?—A. The first information we had that led us to apply for these proceedings was from the attorney-general himself.

Q. Who was that attorney-general?—A. Attorney-General Lear; that advice was given to us in the presence of Governor Hartranft, the then governor of Pennsylvania, I being one of a committee that went before him to lay before him the alleged wrongs of the oil-producers.

Q. When was it you had the first interview with Governor Hartranft on this subject?

(Mr. ACHESON, on behalf of the Commonwealth, objects to this question, and to any inquiry as to what may have taken place between Governor Hartranft and the attorney-general and the witness in respect to these legal proceedings, as a matter which can not properly be inquired into by the master, and as entirely irrelevant; and the counsel, entertaining the views expressed in this objection, instructs the witness that in his judgment he ought not to answer to such interrogatories; and Mr. Acheson further says to the master that personally he has no sort of objection to the fullest inquiry into what may have taken place between the witness and the chief magistrate of the Commonwealth and the attorney-general, but he does not think that it is a proper matter for inquiry in this case.)

The WITNESS. The witness, obeying the instructions of the attorney for the Commonwealth, whose witness he is, declines to answer the question, although he regrets he is not permitted to bear the grateful tribute of the gratitude of the oil company to Governor Hartranft.

Mr. HAMPTON. Defendant's counsel proposes to ask of the witness the following question, for the purpose of showing that the legal proceedings commenced against the Pennsylvania Railroad Company, the United Pipe Lines, and the other railroads mentioned in the three bills filed against other railroad companies were the result, so far as the Commonwealth is concerned, represented by its governor, its attorney-general, and prominent politicians of the Republican party, for the purpose of carrying the State for the Republicans at the approaching election; that the governor, in furtherance of this scheme, went into the oil regions, delivered speeches, inflamed the public mind against the defendants named in the five bills, made lavish promises, and stirred up the people to a pitch of excitement which resulted in the success of the Republican ticket throughout the entire oil regions, aided and abetted also with the private understanding that a certain party was to be elected to a very important position in the house of representatives; that this combination was made upon the grounds furnished by the witness and others of certain facts which they sought to lay hold of as the basis of their combination, a political movement, the result being that the name of the Commonwealth in this bill against the Pennsylvania Railroad Company was used not for the purpose of redressing any grievances, but as a political movement to defeat the Democrats; that at the time the speeches were being made by the governor, and his promises made of the prosecution of the railroads, it was understood by the leading men of both parties that the whole thing was a political dodge, and after the election was over the thing would be practically abandoned, as it has been so far as the attorney-general is concerned, he never having ventured to examine a witness in this case, and has been present only on one or two occasions during the progress of the trial.

Having thus stated the purpose had in filing this bill, defendant's counsel now proposes to ask the witness what took place at his interview between the attorney-general and the governor, and what politicians, if any, were present at the time of this interview, and what promises were made by the governor and the attorney-general, and whether they did or not carry out those promises in the filing of these bills, and

whether the people in the oil regions, upon the faith and strength of the promises made, did not turn in almost en masse and vote the Republican ticket.

(Mr. ACHESON, on behalf of the Commonwealth, states to the master that he is still of the opinion that the questions proposed are improper, for the reasons already indicated by him; but inasmuch as the defendant's counsel has placed upon the record a serious charge against Governor Hartranft, the attorney-general, and the witness himself, and inasmuch as the witness upon the stand has expressed a desire to answer the question, he now leaves it to the witness to answer or not as he sees fit.)

The WITNESS. To give an intelligible account of what happened at that interview I will have to go back to a previous meeting of the Producers' Union. I stated that the message of Governor Hartranft to the legislature asking for a commission was, in my mind, an evidence that he was favorably disposed to the producers, and proposed that a committee of twenty-five should be appointed by the council to proceed to Harrisburg and lay our grievances before the governor, and ask for the interposition of the executive. The committee was appointed. I telegraphed to find when the governor would be at Harrisburg. A meeting was appointed, and I telegraphed then to the twenty-five members of the committee to meet the next morning at the Lochiel House, in Harrisburg. Eight appeared.

Q. State who they were.—A. I do not know whether I can, entirely, but three of them were Democrats, three of them were Republicans, and two Greenbackers. Mr. R. B. Brown, of the Clarion Democrat, was one; George H. Graham, a Democratic member of the legislature, was another; James B. Neil, Esq., was another, a Republican of Kittanning; H. W. Bumpus, I believe a Greenbacker, of Clarion County, was another; and Mr. H. O. Robbins was another, I forget his politics; we figured that among ourselves when we were present, but I forget the individual members. I can not remember the names of the other two besides myself, but I can easily supply them.

We met the governor and the attorney-general in the executive rooms at 4 o'clock in the evening. In a conversational way we in turn presented to him a narrative of the grievances under which the oil country lay, the operations of the Standard Oil Company, and, as compelled and induced by them, of the railroads and pipe lines; we stated further that while the constitution contained clear provisions against rebates, which would entirely, in our opinion, cover our case and give us protection, yet legislature after legislature had met in Harrisburg and had refused to comply with the constitutional obligation of passing laws to enforce those provisions of the constitution. We alleged boldly before the governor what we believed, although it might be difficult to prove, that this result was obtained by bribery on the part either of the railroads or the Standard Oil Company; that in the hurry of the regular sessions these bills could not be passed, but that if an extra session was called for that special purpose, with the people of the State carefully watching every proceeding of the legislature on that subject alone, we were satisfied we could obtain from a specially-called legislature measures that would put in force the constitutional provisions. I asked the governor two questions; first, whether from what he knew of his own knowledge and from our statements, if he believed them worthy of belief, he was convinced of the truth of our assertions. He stated he was. I then asked him if he was convinced that the people of some four or five counties of the State were laboring under unjust exactions, and the greatest article of production of his State was unjustly taxed and borne upon, if he considered it was the duty of the executive to interfere for its production, and he said he did. He then requested us to meet him again, so that he should have time to consult with the attorney-general. When we met in the evening the governor replied that the attorney-general had assured him that the present existing laws of the Commonwealth, when properly evoked, were sufficient for the protection of our rights and the redressing of our wrongs; and he pledged himself that the whole power of the executive and his legal adviser should be used for the redressing of those wrongs in the manner most likely to insure success. I would deny in every shape and form any promise, bargain, or implication of a promise or bargain, made for political support, in return for this exercise of the executive power.

The governor directed us to go home and prepare a memorial, stating in form the matters that we had orally declared before him. At my suggestion, to give it more legal force, it was to be sworn to by reputable citizens of the Commonwealth. And he stated that on the receipt of such sworn memorial he would direct the attorney-general to take such legal steps for the protection of the people of the oil country as in his professional judgment were necessary. I met Governor Hartranft, I think, on one occasion after this, when he was at Titusville attending a meeting of the State Agricultural Association. But in no case, to my knowledge, was a promise made by any one for political support for him or his friends, as either a condition or in consideration of his action. It is my duty to furnish the sworn testimony to my belief of the integrity of the governor's actions.

Q. Is that your answer in full?—A. It is the material substance of all I recollect

that occurred at the interview. I will state further that no effort was made in the Producers' Council, directly or indirectly, to influence its members as to their choice of candidates for governor.

Q. Is that your answer?—A. Yes, sir.

Q. Please state what persons were present at any interviews that you had with Governor Hartranft other than those you have named already?—A. There were two persons of that committee that I can not recollect. There was no one else present.

Q. Did you furnish a memorial such as the governor asked you to do?—A. It was prepared and furnished; I was not present at the interview at which it was presented.

Q. Who prepared it?—A. Mr. Sherman, I think.

Q. The counsel of the Producers' Union?—A. Yes, sir.

Q. Who signed it?—A. B. B. Campbell, Pittsburgh; E. W. Codington, of Bradford, McKean County; Lewis Emery, jr., of Bradford, McKean County; George H. Graham, of Petrolia, Butler County; J. A. Vera, of Saint Petersburg, Clarion County; H. O. Robbins, of Turkey City, Clarion County; L. H. Smith, Petrolia; E. B. Brown, Clarion; D. S. Criswell, Oil City; A. J. Salisbury, Karns City; A. N. Perrin, Titusville, Crawford County; W. B. Benedict, Enterprise, Warren County; H. W. Bumpus, Monroe, Clarion County; Samuel G. Brown, Pleasantville, Venango County.

Q. I wish you would state if you will furnish—to be attached to the evidence as an exhibit—a copy of the memorial?—A. With the greatest pleasure in the world.

Q. Can you state when that was presented to the governor?—A. I see this is marked "presented, August 15;" that agrees with my recollection; I could not be certain as to the date, but I have no doubt that is correct; of course it is difficult to recall a date.

Q. Were the gentlemen who signed this memorial producers?—A. They were, sir, members of the Producers' Union; it was signed in the room, and when we got those names there we thought they were enough; there could have been a hundred more added.

Q. You can state whether this memorial was published in the newspapers throughout the oil regions shortly after its presentation to the governor.—A. It was published in the few papers in the State that we can get such a document published in.

Q. Was it published in the Oil City Derrick?—A. I think so.

Q. Was it published in the Titusville Herald?—A. I do not recollect it.

Q. But you caused it to be published wherever you could get it published?—A. We got it into pamphlet form as soon as possible.

Q. How shortly after was it presented to the governor?—A. That I can not tell you.

Q. Was it not almost immediately with its presentation to the governor that it was published?—A. That I can not tell you; it was certainly not before its presentation.

Q. When did you have it published in pamphlet form and circulated through the oil regions?—A. That I can not tell you.

Q. It was published in pamphlet form at Titusville, was it not?—A. Yes, sir; I think so.

Q. By Graham & Lake, printers?—A. No doubt of it.

Q. The printing paid for by the Producers' Union?—A. No doubt of it; I could not tell you from my own knowledge; we court publicity in these things, and not secrecy.

Q. Was any notice given to any of these parties against whom these bills were filed of the application to the governor, and an opportunity for them to be heard on the question, to your knowledge?—A. I believe that Governor Hartranft stated to me that he would take this memorial to the office of the Pennsylvania Railroad, and would show it to them, and would give an opportunity to the road to desist from this practice before suit was brought, and I think, although I am not certain, that he did so.

Q. How soon after the presentation of the memorial was it that the bills were filed?—A. They were filed, I believe, in October.

Q. What time was it you got a reply to the memorial that the attorney-general would file the bills?—A. I can not state those dates.

Q. As near as you can tell.—A. We commenced the preparation of the bills as soon as the second committee presented the memorial to the governor, which is there marked August 15, and the form of proceedings, I believe, was agitated among the gentlemen who conducted the legal proceedings; I am not familiar with the steps they took; that was their matter.

Q. When was it that you got any reply, written or verbal, from the governor, after the presentation of the memorial that the bills would be filed, and that the name of the Commonwealth might be used?—A. I do not know from my own knowledge, but I believe that the committee that presented the memorial received such assurances from him.

Q. Did this committee, whose names are signed to this memorial, take it to Harrisburg?—A. Some went down; I don't suppose all of them went.

Q. You say that almost immediately the order was then given by the governor, or

his permission rather, for the filing of the bills in the name of the Commonwealth?—A. I can not tell you of all the steps that were taken.

Q. How was the permission of the governor to file the bills in the name of the Commonwealth made known?—A. He assured our committee that the Commonwealth would take up the case; as to the dates when the various steps were taken I do not know; I was hurrying it as fast as I could.

Q. What I want to get from you, if I can, is this: That committee, after presenting the memorial, returned with the assurance of the governor that the bills should be filed?—A. Except that the governor kept to himself time to see the Pennsylvania Railroad Company before proceedings were taken.

Q. When was it that the governor announced to you, or to the Producers' Union, or to any person connected with you, that the bills would be filed in the name of the Commonwealth and that he had directed the attorney-general to have those bills filed?—A. My understanding was that this committee returned with the assurance that unless relief was immediately given proceedings would be taken, and from that time until the bills were filed in November last I have been hurrying it up, because delay is what is killing the oil regions.

Q. Did you telegraph the governor?—A. No, sir.

Q. Did you telegraph the attorney-general?—A. I telegraphed him, asking for a meeting; there may be some other telegrams between us, but if so I do not know what they are; between myself and the governor I do not think there were any telegrams; but through this whole proceedings I was urging the utmost celerity.

Q. When this committee returned to the oil regions, was not the whole thing made public throughout the oil country?—A. That the governor had consented?

Q. Yes, sir.—A. I do not remember, but I think they would have been very derelict in their duty if they had not made it known.

Q. Was not it publicly known that the committee had returned with the governor's assurance that the bills would be filed, and did you not see in the newspapers in the oil regions statements to that effect?—A. The committee came back with the understanding that proceedings were to be commenced at once, with the exception that the governor retained the right to see the Pennsylvania Railroad first, and I was very much disgusted when I heard of it.

Q. And the thing was made public by this committee?—A. We had no secrets in the matter; we were working openly and aboveboard.

Q. Was not the fact made known publicly throughout the oil regions when the committee returned?—A. I have no doubt of it. The first proceedings instituted were the *quo warranto* against the United Pipe Lines. But I would beg leave to say, in vindication, that I am not responsible for the delay in the proceedings. I was anxious and was working for immediate action.

Q. Will you state why it was that on the 12th of September, 1878, the petition was prepared and sent to the secretary of internal affairs, signed by James H. Caldwell, James F. Imel, and the others you have named?—A. As an additional and collateral proceeding invoking the power of the government in our protection; and others we could have found out we would have used with alacrity.

Q. Then, from the 15th day of August, the time that this memorial had been presented, until the 19th of September there had been no bill filed by the Commonwealth, had there?—A. I can not remember the date of the proceedings against the United Pipe Lines; that was the first active step taken.

Q. The bills in the supreme court were all filed on the same day?—A. Yes, sir.

Q. The point is, from the 15th of August, the time your memorial was presented, up to the date the petition was presented to the secretary of internal affairs, there had not been any bills filed in the supreme court?—A. No, sir; that was before.

Q. Who was secretary of internal affairs at that time?—A. General McCandless.

Q. Was General McCandless a Democrat?—A. He is, sir, I believe; candidate for Democratic governor the year before.

Q. Do you know the politics of Mr. James H. Caldwell?—A. He is a Democrat, I believe.

Q. Do you know the politics of Channey F. Lufkin?—A. I do not; Mr. Patterson knows all those men; they are Titusville men.

Q. James Purtil; is he a Democrat?—A. I do not know; not to my knowledge.

Q. Is Lafayette J. Kerr a Democrat?—A. Not to my knowledge.

Q. What is the politics of Erastus H. Dyer?—A. I do not know his politics.

Q. You do not know the political complexion of that committee?—A. No, sir; Mr. Caldwell was a candidate for a local office in Titusville, and I happen to know his politics; but on the question of politics I never talked with any of them.

Q. What office was he running for at the time?—A. Some local office. He was beaten.

Q. You can state whether or not General McCandless, through a deputy, took testimony as to the grievances that the oil men had to make.—A. Mr. James H. Atwell, I think, took the testimony.

Q. State whether Mr. Atwell had a meeting to take testimony at any point in the oil regions; and, if so, where?—A. At Titusville he met, here I believe, and I do not remember what other points—Harrisburg.

Q. And heard evidence for a considerable time?—A. Yes, sir.

Q. Did you appear before him?—A. I do not remember.

Q. You can state whether Mr. Atwell made a report or not on the 14th of October to Hon. George Lear, the attorney-general, of the result of his investigation.—A. Mr. McCandless, I believe, made the report.

Q. Mr. McCandless made the report to the attorney-general?—A. Yes, sir.

Q. You read that, and have seen it?—A. I have seen it.

Q. Now state when it was that Governor Hartranft attended the State agricultural meeting at Titusville.—A. It was the second Tuesday in either September or October, I can not tell you which.

Q. Did he make a speech on that occasion?—A. I did not hear him make one.

Q. Do you not know he made one?—A. I do not know of his making one.

Q. Did you read any reported speech he made?—A. No, sir.

Q. You were not in the oil regions at the time?—A. I was, sir; in the city of Titusville.

Q. Did he make a speech, to your knowledge, during the canvass in the oil regions in which he repeatedly assured and promised the people that they should have redress?—A. I heard that he did speak at Petrolia; I do not know that this was the subject-matter of the speech, but I have no doubt he was true to the promises he made.

Q. And that is his successor, his friend in politics, General Hoyt, would carry out his views if elected?—A. I do not think he stated that; fortunately for us all the candidates for governor stated they would carry out Governor Hartranft's policy, so we were safe whoever was selected.

Q. So you got the question for your grievances brought into the political canvass, did you?—A. Not until we found all the candidates were equally willing to pledge themselves to protect us.

Q. The Democrats, did they through Dill?—A. We received a letter from Mr. Dill that was perfectly satisfactory; also from Mr. Mason, and last from Colonel Hoyt.

Q. All bidding for the vote of the oil regions?—A. By no means.

Q. Pledging their support, did they not, of the relief that Governor Hartranft had promised?—A. All stating that if they were elected governor they would protect the oil regions in all parts of the State, and that they would carry out any proceedings for its protection commenced by the preceding governor; therefore there was no effort throughout the oil regions to concentrate the vote on any one candidate for governor, but all parties voted according to their political predilections.

Mr. ACHESON. These letters of the candidates were published, were they not?

The WITNESS. Yes, sir.

Mr. HAMPTON. Of your own knowledge, do you know how many speeches Governor Hartranft made through the oil regions?

The WITNESS. I do not.

Q. Do you know how long he was up there?—A. Well, in Titusville, he was there during the meeting of the State Agricultural Society, of which he was president, which had adjourned the year before to meet on that day. It happened to be on the same day of the meeting of our council.

Q. There were a number of county fairs held throughout the oil regions about that time that he attended?—A. I think not; I never heard of his attending any county fairs.

Q. Was Mr. Dill, the Democratic candidate for governor, through that region during the campaign?—A. I can not state that fact.

Q. Were not members of the legislature nominated and voted for upon the basis of carrying out the platform that Governor Hartranft had adopted in relation to the oil people and their grievances?—A. We voted for representatives to the legislature whom we thought and believed would be true to protect the interests of their constituents.

Q. That was the main question, was it not, in those oil counties on which the vote was given?—A. I hoped that it would have been, but it was not; a great many stuck to their old party predilections. I endeavored to throw the entire vote of the oil country for a Democrat, Mr. Africa, and, while he held his ticket very handsomely, he failed of an election.

Q. To your knowledge, before this application was made to the governor, had there been any legal proceedings commenced in the county courts by any of the producers to redress what you claimed to be your wrongs?—A. There had not, sir; my remedy had always been very clear in my mind, but I could not get at the data to commence it.

Q. To your knowledge, I understand no proceedings, either by mandamus or actions at law, had been commenced against any of the corporations named in the five bills that were filed in October in the supreme court for the recovery of the damages alleged

to have been sustained by the oil producers?—A. There were no proceedings contemplated looking to the recovery of damages. We wished to proceed by injunction, but we were informed by our attorneys that private citizens could not use those methods to protest against a public wrong. The proceedings I always advocated was a criminal prosecution for conspiracy; I have never varied in my faith of that and never will.

Q. You state that as a professional man and not as a witness?—A. No, sir; the trouble was we could not reach the definite testimony, such as we now have.

Q. You stated that a number of refineries that used to be in existence about Pittsburgh had ceased operations, at least so far as the parties who held them some years ago are concerned?—A. Yes, sir.

Q. Were any of the refiners invited or requested to join in the proceedings against the companies?—A. No, sir.

Q. The movement was then wholly and solely by the producers?—A. By the producers.

Q. Where not the parties in whose interest the bill was filed in the name of the Commonwealth residents chiefly of the lower river district?—A. No, sir; they may be residents.

Q. At the time of the commencement of these legal proceedings were they not living in the lower or Butler district, where you are?—A. I have always lived in Pittsburgh, and I have but few interests in the upper country; Mr. Codington lives in Bradford; Mr. Emery also lives in Bradford; Mr. Graham lives in Butler, he has interests I believe in Bradford; J. Vera lives in Saint Petersburg, but principally operates in Bradford; H. O. Robbins, I think, has Bradford interests; L. H. Smith is very largely operating in Bradford; R. B. Brown is now editing a Democratic newspaper; D. S. Criswell, of Oil City, is operating largely in Bradford; Mr. Salisbury, of Karns City, is a large Bradford operator; Mr. Perrin, of Titusville, while operating in the lower district his main operations are in Bradford; Mr. Benedict lives in Warren County, and is also operating there; Mr. Bumpus, I think, is also operating in Bradford, and Mr. Brown I know is; out of that list I think I mentioned only one who is not operating in the upper district.

Q. You are speaking now of those who signed the memorial to the governor?—A. Yes, sir.

Q. State if there are not as many, if not more, producers who believe that overproduction is the cause of their injury, and do not go with the members of the Producers' Union?—A. Of course I can not answer that question. Some producers have the views you mention, and men who, I believe, are sincere. Many large producers have Standard interest and affiliations; of course they are deadly opposed to all these proceedings. Others again are timid and afraid to face the power of the Standard, and think we must yield as the only redress. But I believe the large majority of the producers of western Pennsylvania are heart and soul in this proceeding.

Q. So there is a division of opinion upon the subject of whether the measures you have stated are sufficient for relief or not, and that it is not the constant overproduction which has brought all the misery that now exists?—A. I have stated my belief as fully as I can in the foregoing answer.

Adjourned to meet at the office of George Shiras, jr., Esq., at 10 o'clock a. m. on Friday, February 28, 1879, to continue the cross-examination of Mr. Campbell.

PITTSBURGH, PA., *February 28, 1879.*

Met at the office of George Shiras, jr., Esq., Fourth avenue, pursuant to adjournment, and the cross-examination of Mr. Campbell continued.

B. B. CAMPBELL was recalled and further cross-examined by Mr. Hampton, as follows:

The WITNESS. I wish to make one addition to my testimony. Of the committee of eight that waited on Governor Hartranft I gave the names of six correctly. The other two were C. C. Camp, defeated Greenback candidate for Congress from the Venango district, and Willis Benedict, of Warren County, a Republican. I also wish to correct my cross-examination on folio 34, where I was asked the question, "Are there any refiners in it?" My answer was, "No, sir." I would state that in answer to an inquiry of mine I have received from the secretary of the Producers' Union, Henry Byron, the following list of names of gentlemen who have been refiners of petroleum and are members of the Union: David Emery, D. O. Wickham, Lyman Stewart, G. O. Emery, H. B. Porter, J. A. Cadwallader, Lewis Emery, jr., J. W. Doubleday, F. M. Chandler, W. P. Low, James H. Davis, Milton Stewart, G. C. Hyde, S. P. Boyer. These gentlemen were refiners in the Creek section I was not familiar with, and hence I was not aware they had been refiners as well as producers,

Q. Are they members at the present time?—A. Yes, sir.

Q. Are they refiners and operating in the oil regions?—A. Not to my knowledge. I know of one refinery, which a number of these gentlemen was in, that has been sold out to the Standard or the Acme.

Q. But these gentlemen whom you have named are at present producers, are they not?—A. Yes, sir; to the best of my knowledge.

Q. They were refiners?—A. They were refiners.

Q. They have no refineries?—A. No, sir; not to my knowledge.

Q. At the close of the examination at the last meeting your attention was drawn to the question of the overproduction of oil in the oil regions. I wish you would state, if you can, what, in your opinion, is the present daily average production in barrels of the entire oil regions, as near as you can estimate it?—A. I will state that I believe the average production to be over 40,000 barrels a day.

Q. What, in your opinion, is the daily average cost of the production of that oil, including the cost of new wells, the depreciation in territory, the depreciation in machinery, and all other matters that may be included in and as necessary to the production of oil?—A. It is a question of magnitude; I would not attempt to answer it; I am satisfied oil is to-day produced at a loss.

Q. State whether it would not be about \$1.25 a barrel, including everything that I have stated?—A. No, sir; I believe it to be over that, but it is a matter of belief, and not of evidence.

Q. Is that your best judgment as a producer, and from your observation, that to produce 40,000 barrels a day it costs over \$1.25 a barrel?—A. In the lower field, undoubtedly; as to the upper I am not so familiar. In the lower field it can not be produced at \$1.25 on account of the value of the territory and the risk of putting down wells; the mere actual pumping does not cost that.

Q. If the producers would limit the amount produced to the actual demands of the trade, would not that be very considerably less than 40,000 barrels per day?—A. I will have to answer that question at length, Mr. Hampton. I want to put down my opinion on the question of overproduction fully and entirely. As in the fettered state of the trade where none but one party can obtain transportation on anything like equal or uniform terms, with the fettered state of the refining interest where the rebates paid to one party are more than the value of the crude oil at the wells, undoubtedly too much oil is produced for the present wants of the trade. But my firm belief is, that with free equal transportation, with free equal refining, with competition for shipments to all the markets in the world, each seeking to put in the best oil instead of the poorest, as the Standard are at present doing, that the wants of the world would take more oil than the oil country has ever produced. Therefore, while I am willing to admit that there is overproduction on a fettered trade, with the whole supply going practically through the hands of one monopoly, yet I do not believe there would be overproduction on a free trade. But if there was, the producers would never have applied to the governor for relief against low prices produced by their own excessive drilling. My belief is that the oil business, like any other business, should be governed by the natural laws of supply and demand. If we produce more oil than the world wants on a free trade, we will be rightfully compelled to take low prices for our product. And if, on the other hand, the fair natural demand for our product is greater than the price given to us by a monopoly, we are not satisfied. To put it in as terse a way as I can, if oil on an open market is worth 50 cents a barrel, I am perfectly willing to take for my product 50 cents; if it is equally fairly worth \$5, I am not satisfied to receive \$4.95. I can not say anything more, Mr. Hampton, if you examine me for a week.

Q. The question to which I would like to have an answer is this: Suppose what you term overproduction was checked and no more oil produced than there was an actual market for, say inside of 40,000 barrels a day—38,000—could not oil then be held and sold at the wells at \$3 a barrel?—A. I have already told you that if the supply of oil is less than the demand the price must advance. And it is utterly idle to attempt to restrict production. Men owning property will put down wells, and they can not be controlled.

Q. What I want you to state, if you can, is, what your opinion is, from your knowledge of the business, as to the effect that would result from the production being equal to the demand and no more; would it not enhance very greatly the price of oil at the wells?—A. It would, but I would further state that it is absolutely impossible to stop production.

Q. But the question I propose to you is this: Suppose what we term overproduction was stopped?—A. I do not admit overproduction.

Q. More oil produced than there is a demand for; would it not necessarily greatly enhance the price of oil at wells?—A. At the present time, I told you, I know of no overproduction, because there is no open demand. There is more oil than the Standard will take.

Q. For that reason would you say there is no overproduction?—A. I do not know

that; when I find what the world will use on an open, free market then I will tell you whether there is overproduction. I would wish to say here further that the great bulk of the wells in the northern district, as far as I know, have been drilled either by new men in the business, or men who have been or are in the Standard interest, who are among the largest operators there.

Q. Could you state, if the supply were equal to and no greater than the demand, what would be the price of oil at the wells to-day, or at any time shortly prior to the filing of the bill in this case?—A. That is one of those questions it would be impossible for me to state.

Q. You can not answer?—A. No, sir; it is merely a surmise.

Q. Can you state during the year 1878 whether the export of oil was less or greater than during 1877?—A. I prefer to refer that answer to Mr. Stowell's tables.

Q. In your examination-in-chief your attention was called to the fact of there having been certain refineries in and around Pittsburgh some years ago; are there not now as many refineries in and about Pittsburgh as there were some five or six years ago?—A. I think not, sir.

Q. As a fact, was there not more oil refined at Pittsburgh, or near it, last year than any previous year since the refining business commenced?—A. I can not answer that as to the amount of barrels; as a percentage, it was very much less.

Q. What do you mean by a percentage?—A. The proportion to the whole trade; it was far exceeded in former years.

Q. I understand you, then, you don't undertake to state or to have any knowledge of the number of barrels of refined oil that were made here and shipped eastward last year?—A. I have, of course, read and studied the tables, but I would prefer to be governed by them rather than by memory, which is always defective; we act on those tables, although we do not carry them in our minds.

Q. When you were having this bill prepared, were you authorized by any of the refiners who had owned refineries here to represent them in the case?—A. I would want to correct your phraseology; I did not have the bill prepared—the Commonwealth prepared the bill; but I never was authorized by any refiner here.

Q. Have you any knowledge of the financial condition of those several refineries before they were sold out?—A. Which one?

Q. Any one of them?—A. I know very well the entire process by which the Standard obtained control of those refineries.

Q. Have you personal knowledge of the transaction?—A. As much as any one in a business where it is a matter of daily and hourly observation.

Q. Were you ever present when the parties came together and sold their property?—A. I was not.

Q. Were you ever present at any public sales when these properties were sold and bought?—A. I was not, sir; but to men who are in the business these matters of vital interest are matters of public notoriety.

Q. Then of what part of your examination-in-chief in relation to these refineries being squeezed out, as you used the term—driven into bankruptcy and out of the business—and of men being paid money, you have no personal knowledge?—A. I heard from the refiners themselves; I was not present at the transaction; I was examined as an expert, and gave my testimony accordingly.

Q. So far as that evidence is concerned it rests upon mere hearsay?—A. Upon matters that were current and notorious in the trade. But my information has been rendered much more definite by the testimony of Mr. Brooks, who was on the stand.

Q. You spoke in your examination-in-chief of an interview with John Scott, in June, 1877.—A. No, sir; there was no interview; I did not speak of an interview; I telegraphed him, and I met Mr. Shinn, but Mr. Scott was not present.

Q. In your examination-in-chief you stated that you had telegraphed to Mr. John Scott in relation to a supply of cars.—A. Yes, sir.

Q. Do you know what number of cars Mr. Brundred had at that time for distribution?—A. I know nearly the amount of cars the Green Line own.

Q. At that time do you know of your own knowledge what cars he had to distribute?—A. I think about between ten and eleven hundred cars.

Q. Do you mean there on hand?—A. I do not know that.

Q. The point is this: on the day that you made application to Mr. Scott, telegraphed him that you apprehended trouble, do you know how many cars Mr. Brundred had at his disposal at that time and place?—A. I do not, sir.

Q. Do you know what demand he had from the upper Bradford region for cars at that time?—A. Of my own personal knowledge I do not; as a matter of notoriety in the trade I know how the whole scheme was managed.

Q. I am asking you about your own personal knowledge on the subject. Mr. Brundred has kept an accurate account of all the cars he had and the supply of cars, and we assert that he had not any more cars to distribute at that time than he had in use.—A. I know that the shipments were from 25,000 to 28,000 barrels a day; I

know that the railroads claimed generally that they could not furnish any more, and that was a proof of the conspiracy between them.

Q. Was not that trouble started principally between the producers and the United Pipe Lines?—A. The United Pipe Lines refused to run oil unless it was sold. At Parker there was but one buyer, the Standard Oil Company, and they said they could not buy because they could not get the cars, which amounted to a practical suspension of business, with the oil running over in the tanks.

Q. The difficulty started in the way you have suggested?—A. If I had not believed that there was a systematic attempt to hold cars I would never have telegraphed as I did, and the result of the telegram was the best proof I deem of the facts.

Q. I want you to state, if you know of your own personal knowledge at the time this telegram was sent, how many cars there were then in and around Oil City.—A. All I can tell you is of the increased shipments immediately after the telegram.

Q. Do you know of your own knowledge whether those cars had not been East and had not returned at that time? You say you were half an hour in passing through trains of empty oil cars when you were on the train?—A. Yes, sir.

Q. Do you know of your own knowledge how long those cars had been there, and where they came from?—A. Yes, sir; I knew they came down the low-grade road, and I considered it a most happy coincidence.

Q. But you had no knowledge personally of the number of cars there?—A. No, sir.

Q. You did not count them?—A. No, sir.

Q. And don't know where they came from?—A. But I did examine the shipments that day.

Q. You say you got your information from the record?—A. No; on the Parker Exchange, from the daily report of the United Pipe Lines.

Q. How had you knowledge of where the cars came from?—A. I saw a great quantity of empty cars; it looked like mosquitoes coming out of a swamp.

Q. You judged from the appearance of the cars there it was the result of your telegram?—A. I had that idea.

Q. That is the reason you made your statement in your examination in chief?—A. It was.

Q. So that if those cars were East and returned the usual time, your whole theory was wrong?—A. Most certainly not; I know that two-thirds of the cars in the oil regions at that time, being Standard cars, were side-tracked, and one-third, the only public cars, they tried to make do duty for the whole country and they could not do it.

Q. To your knowledge, had there not been at times prior to that as great a demand for cars as at that time?—A. There was never any such on shipments of from 25,000 to 28,000 barrels a day.

Q. Don't you know that at times previous there had been as great a demand for cars as then?—A. There was not; I say the capacity was much greater than were furnished; those cars did not disappear—they were withheld.

Q. Although you have no personal knowledge where those cars came from that you saw at the time you went along in the train to Pittsburgh?—A. I know they came from the low-grade road, because they could not come from Pittsburgh here.

Q. You don't know whether they had just come from New York, having taken oil over there and unloaded and returned?—A. I do not; I know that the shipments for the next week were nearly double what they were the week before; one week they reached 30,000 barrels, and the next week they made an average of about 50,000. The dispatch was sent solely in hope of averting trouble, which would have happened if it had not been sent, I believe. There are limits to human endurance.

Q. You stated in your cross-examination that the complaint of the producers is that others are given what you term rebates, or a discrimination in rates.—A. Yes, sir, undoubtedly; to an amount more in value than the present value of crude or refined oil.

Q. Do you mean by that that it is confined to oil that is shipped from the oil regions to New York only?—A. No, sir; the system embraces every State in the Union, giving advantages to the Standard Oil Company over any other shipment.

Q. The point I want to draw your attention to is this: The complaint is that there is a rebate given above the open rate from the oil regions to New York; I wish you to state what, in your view of the subject and those associated with you, would be the result of an injunction against the Pennsylvania Railroad practising a thing of that kind when the New York roads on the one side, and the Baltimore Road on the other side, are left wholly without an injunction; how is the evil to be remedied, if it be one, if you tie the hands of the Pennsylvania Railroad Company and the other corporations are left free to take the trade of the oil regions?—A. I have from the very commencement of my oil business done my business by preference over the Pennsylvania Railroad and Empire Line as long as I could. As I understand, the proceedings of the Commonwealth are to place the same wholesome restrictions on all railroads carrying oil out of the oil regions.

Q. So that the view you entertain, and the parties whom you represent in this bill, the producers, is that any attempt to redress what you claim to be your wrongs there must be a restraint placed upon all the railroads carrying oil out of the Commonwealth?—A. Practically the only railroads that can reach oil through the United Pipe Lines are the Pennsylvania Central, the Erie under its new organization, and the New York Central; whatever oil is given to the Baltimore and Ohio road is given to her by an allotment of the Pennsylvania Railroad, and over the tracks of the Valley road controlled by it; but the interests of the railroad stockholders, as well as of the producers, requires, in my opinion, that the wise prayers of these bills should be enforced by the supreme court, giving equal rates to all shippers, and giving the stockholders of the railroads the benefit of a fair, open, remunerative rate.

Q. I call your attention again to the question. What relief, if any, will it be to the producers and shippers of oil out of Pennsylvania to have the Pennsylvania Railroad tied by an injunction against any discrimination, and the New York Central and the Erie Railway, with their lines reaching into the oil regions on one side and the Baltimore and Ohio Railroad on the other, free to act—an injunction not being asked as to them?—A. The effect at once would be of open rates on the Pennsylvania Railroad, and the erection of new independent refineries, which would give her, in my opinion, what she possessed before the sale of the Empire Line, the control and hold of the oil business.

Q. But practically, however, if the Pennsylvania Railroad is enjoined from making any discriminations in rates, it could extend only to the State line. How would you affect the transportation of crude to the sea-board, and have any control of the rates to New York, as the law exists there at present?—A. The Pennsylvania Railroad would probably have to carry oil at competitive rates, which I believe would be better rates to her than she is receiving to-day from the combination, so far as I get it from the evidence in this case.

Q. Have the producers in Pennsylvania, and the refineries in Pennsylvania and New York, or either of those States, commenced similar proceedings in the State of New York against their railroads to those that have been commenced here, with the same purpose in view, to prevent any discrimination or granting of rebates?—A. Yes, sir; the New York refiners commenced by a more summary proceeding than we have I believe—by writ of mandamus.

Q. That is against one railroad?—A. That was the only one reaching the Bradford field, I think, then.

Q. There is another road, is there not, having connections down in the oil regions?—A. Proceedings have been commenced against her by the Commonwealth of Pennsylvania.

Q. When?—A. Against the Dunkirk, Allegheny Valley and Pittsburgh Railroad Company. They are a defendant, I believe.

Q. That relates solely to the road as operated in the limits of Pennsylvania?—A. I suppose so.

Q. There has been no proceeding, however, commenced against its connection in New York to prevent any discrimination or rebate to New York, has there?—A. Not to my knowledge.

Q. So that practically you are carrying on this warfare against the Pennsylvania Railroad, and in case of an injunction it can amount to nothing practically, can it, in preventing a rebate or discriminations in freights?—A. I believe it will. I believe if this injunction was granted we would have open, fair, and free rates.

Q. You don't undertake to say that, if the New York roads are left free, without any injunction, so they can do as they please as to rates, and the Baltimore and Ohio the same way, and the Pennsylvania Railroad Company enjoined, such would be the effect?—A. The Baltimore and Ohio road can not reach the oil region for themselves; so I consider her as practically out of the business in the present state. So far as the Erie road is concerned, proceedings are commenced against her, and also against the New York Central, or two of her branches—the Lake Shore and Michigan Southern, and the Dunkirk, Allegheny Valley and Pittsburgh.

Q. But so far as the New York Central road proper is concerned, for a distance of about 400 miles, there is no proceeding against her?—A. Not to my knowledge.

Q. So that while you might control the prices of carrying oil to New York line, when you come there the corporation in New York might carry at any rate it saw proper for that 400 miles to New York?—A. The world was not made in a day, and I have no doubt similar proceedings will be enforced there.

Q. I want to get your views on the practical operation of the bill or your method of relief. Would it not be the case, if that road for a distance of 400 miles in New York could take the oil at a very low figure, that it could in that way get the entire business into the State of New York by that line?—A. If the Pennsylvania Railroad would carry for the public at the same price to-day as for the Standard Oil Company, my belief is its oil trade would be doubled.

Q. I did not ask you that. I ask you if the New York roads could not carry the oil for a distance of 400 miles in New York at a very low rate, and in that way get the entire business?—A. No, sir; I do not think so. You asked my views and I have given them. If the present rate to the Standard Oil Company was held out to everybody the Pennsylvania Railroad, having the shortest and most direct route, would govern the rates of freight. The other railroads would get tired of carrying it for below cost, and the Pennsylvania Railroad, by her facilities, could dictate the rates of freight.

Q. Even with the Pennsylvania Railroad enjoined and the New York roads left free?—A. Certainly; because the Pennsylvania Railroad could place her open rate at the best competing price and get the trade; the others, growing tired of losing money, would compel the Standard to fix their rates equal to hers.

Q. Practically you do not pretend to understand the operation of transportation by rail and its cost?—A. I did not think I did when I examined those tables.

Q. I did not ask you if you examined the tables. Answer the question without injecting an argument or speech.—A. I am not a railroad man.

Q. Have you ever sought an interview with the presidents of the New York roads with a view of fixing the rates of freight over their lines?—A. I have not.

Q. Has any committee of the Producers' Union ever waited upon those roads, or their officers, and demanded what is sought in this bill here—an open rate of freight, without discrimination, on oil?—A. As a rule the producers are not shippers; the testimony shows repeated attempts to obtain rates from the New York roads; the producers are not shippers as a rule.

Q. I understand you, though, that the rate of transportation, as at present practiced, works injuriously to the interests of the producers?—A. It certainly does, sir.

Q. Did any committee of the Producers' Union ever go to these New York roads and make the demand of them that you are now making of the Pennsylvania Railroad?—A. We did not, no more than we would send a committee to the officers of the Pennsylvania Railroad, knowing it would be labor lost.

Q. So far as the Producers' Union is concerned, or its branches, you have never taken any steps to bring about an interview with the two New York railroads on the question of rates?—A. We have not, sir.

Q. Has the Producers' Union, or its counsel, taken any measures, by resolution or otherwise, to bring the two New York railroads before the courts on this question of discrimination?—A. The Producers' Union adopted a resolution to employ counsel after the governor had said he would interfere for the protection of the oil regions; the parties against whom proceedings have been brought have been settled upon by interviews between the associate counsel and the attorney-general of the State. I may state I was not present at those interviews.

Q. I understand you to say, so far as the two New York roads are concerned, this committee that waited on Governor Hartranft never waited on the governor of New York?—A. No, sir; we did not.

Q. Or any officer of that government?—A. No, sir.

Q. Or upon any officer of the New York Central or Erie road, or have any interview with them on the subject of transportation, and the committee never have, to your knowledge, commenced any proceedings in New York similar to those commenced in Pennsylvania?—A. No, sir.

Q. So that, practically, with the exception of the case brought by some refiners of New York, the New York roads have not been molested either by the producers or refiners of Pennsylvania?—A. By no means; legal proceedings have been instituted by the Commonwealth of Pennsylvania against the Atlantic and Great Western, a branch of the Erie, and the Dunkirk, Allegheny Valley and Pittsburgh, and the Lake Shore and Michigan Southern, branches of the New York Central.

Q. But against the New York Central itself, in the State of New York, there have been no proceedings commenced?—A. No, sir.

Q. To your knowledge have the counsel retained by the Producers' Union ever been in consultation with any New York counsel on the question of redressing the wrongs of the producers by proceedings against the New York corporations?—A. Not to my knowledge.

Q. Or in Baltimore, to redress the wrongs against the Baltimore and Ohio Railroad?—A. Not to my knowledge.

Q. I understand from your opinion of the mode of transporting oil that the Baltimore and Ohio Railroad is in the combination as much as the other railroads against whom bills have been filed, other than the Pennsylvania Railroad.—A. There is evidently some arrangement between the Baltimore and Ohio Railroad and the Pennsylvania Railroad, because I see the Baltimore and Ohio cars every day on the Valley road, a branch of the Pennsylvania.

Q. These allotments you understand to be a part of this combination?—A. Of course I know nothing about the allotments further than the general report; the general

report is that there is an arrangement between the Pennsylvania Railroad and the Baltimore and Ohio.

Q. By which the cars of the latter go up into the oil regions and get a certain portion of the trade?—A. No, sir; they go to these refineries; they do not go to the oil regions.

Q. How long before these bills were filed in Pennsylvania in the supreme court had the subject of litigation against the various companies been discussed in your general council of the Producers' Union at Titusville?—A. Almost from its first organization. We determined to use all our endeavors to open trade. Our principal efforts were made first with Congress and the legislature for the passage of the anti-discrimination bills.

Q. Has there ever been any action at law brought against the Standard Oil Company in Pennsylvania to recover damages on account of this alleged combination by the producers or refiners of Pennsylvania to your knowledge?—A. Not to my knowledge.

Q. Have there ever been any legal proceedings of any kind against them?—A. Not to my knowledge.

Q. They are not included in any bills filed in this case?—A. No, sir.

Q. Neither the Standard Oil Company of Pittsburgh nor the Standard Oil Company of Cleveland, Ohio?—A. No, sir.

Q. Has not the Standard Oil Company of Cleveland, Ohio, offices and places of business in the State of Pennsylvania?—A. It is very hard to tell; I believe they have.

Q. There has been no suit brought, and no effort made to serve them with processes of any kind?—A. No, sir.

Q. You stated on your former examination that the general council of the Producers' Union meet at Titusville?—A. Yes, sir.

Q. Its discussions are public?—A. No, sir; its discussions are not public; its resolutions and acts are; its sessions are not open, but any act that passes is open.

Q. Their deliberations are in secret?—A. Yes, sir; because we do not want at business meetings to have reporters there.

Q. These branch councils you have enumerated, are their deliberations secret?—A. They have no deliberations but to pass upon the acts of the general council.

Q. They are secret?—A. Certainly.

Q. Do you know whether the party entering is required to take an oath of secrecy?—A. He was, but that has been done away with.

Q. They were oath-bound societies?—A. Yes, sir; I can repeat the oath if you wish it.

Q. Can you repeat the oath from memory?—A. Yes, sir.

Q. You have administered it, have you, frequently?—A. Yes, sir.

Q. In that way you came to know it?—A. Yes, sir.

Q. What office do you hold?—A. President of the council.

Q. You organize these different subcouncils?—A. No, sir.

Q. Where do you do the swearing in?—A. I administered the oath to members of the council so long as it was a secret organization.

Q. Its deliberations are secret yet, I believe?—A. They are not open yet. Any act passed by action of the general council is not a matter of secrecy.

Q. Its discussions and everything of that character that led to that action are secret?—A. Yes, sir.

Q. Minutes are kept of what was done?—A. Yes, sir. I would further state, in explanation, that it is made the duty of the president or secretary to produce those minutes any time they may be inquired for in any proceeding directly or collateral in any court of justice, and thoroughly explain any resolution that has been passed.

Q. That is your general council?—A. That is where all the business originates. Local councils have merely the right to ratify.

Q. They send delegates to the general council?—A. Yes, sir.

Q. Is it required of a party entering one of these subcouncils to take an oath when he enters it?—A. I can not tell you whether that obligation has been removed or not at this time; it did; I can give you the obligation.

Q. They originally required the party to take an oath when he entered it?—A. Yes, sir.

Q. You can repeat the form of the oath if you can; I suppose you have administered it a great many times?—A. Not in the local councils; I took it there.

Q. Into what council did you enter?—A. The one at Parker.

Q. Who administered the oath to you?—A. Major Hawkins. The oath of the general council before it was repealed was this: "You do swear by Almighty God, the searcher of all hearts, that you will discharge your duties as a member of this council with fidelity and to the best of your ability; and further, that you will not disclose the password or any business of this council to any one not a member of the Producers'

Union." That was the oath. The present form is this. I will also state that any party wishing to affirm could do so in place of taking the oath.

Q. You have some Quakers, then?—A. Yes, sir. The present pledge, which I consider a great deal more binding, is this: "You do pledge your honor that you will discharge your duties as a member of this council with fidelity and to the best of your ability, not seeking your own private benefit or advantage, but the general good of the producers you represent. And to this you pledge your honor."

Q. Why do you consider the latter obligation a more binding and solemn one than the one you administered before?—A. Because all my life I have been opposed to extrajudicial oaths; it was with great qualms of conscience I joined the general council, it being a secret society.

Q. When was the form of the oath changed?—A. At the last meeting.

Q. When was that?—A. The second Tuesday of this month.

Q. But the first oath that you recited here was the one in force from when?—A. From the formation of the council.

Q. Down until?—A. Until that time.

Q. This committee of twenty-five that went to Harrisburg to get the governor's permission to file this bill in the name of the Commonwealth—were they members of the council?—A. They were, all but one; there were eight attended, not twenty-five; seven were members of the council, and one was not.

Q. That was in pursuance of action taken in the general council, was it not?—A. Yes, sir.

Q. I understood you, did I correctly, that the committee consisted originally of twenty-five?—A. Twenty-five was the committee originally, but only eight attended.

Q. And all but one were members of the general council of the Producers' Union?—A. Yes, sir.

Q. And they went there in pursuance of the action taken by the general council?—A. Yes, sir.

Q. There was action also taken by the general council to raise funds to carry on this proceeding?—A. I stated so in my testimony the last day; the form of it was the appointing of a collecting committee in every town. I appointed myself in Parker, and I obtained, I told you, 150 names.

Q. I didn't ask you how often you were at Harrisburg to see the governor and the attorney-general before these bills were filed.—A. I never was there but once—the time I was on the committee; I never went again.

Q. You saw the governor and attorney-general at that time?—A. Yes, sir; there was no one present besides us eight.

Q. Had that committee or you interviews with outside parties in Harrisburg, connected directly or indirectly with this matter?—A. None whatever; we took special pains to keep our business secret.

Q. Was it explained to the governor that this committee had been appointed by the Producers' Union?—A. It was; I had stated that to him before by wire.

Q. You had made him acquainted with the action of the Producers' Union on the subject?—A. Yes, sir; and arranged as to the interview. The interview was fixed for a certain date. He came to Harrisburg from Long Branch, and we came from Pittsburgh.

Q. Where did you meet?—A. In the executive parlor.

Q. In the governor's private residence?—A. No, sir; the public parlor—the executive chamber.

Q. You telegraphed the governor to come up from Long Branch, did you?—A. I telegraphed to Harrisburg to know when we could get an interview; the answer came from his private secretary that he was away, and that he would fix an interview; and we then got a date fixed at which he would meet us.

Q. Did you see the attorney-general at this time, or any time prior to filing the bills?—A. I never saw the attorney-general until I met him in the governor's presence that day.

Q. He was there?—A. He was there.

Q. What did he say about filing a bill?—A. We made no demand for the filing of bills. We asked for an extra session of the legislature. The governor took the ground that there was a remedy with the laws at present. We made but a single demand, that for an extra session of the legislature.

Q. What was the date of that interview when the governor came up from Long Branch, as near as you can tell?—A. It was probably ten or fifteen days before August the 15th—very near the 1st of August, a few days either one side or the other, I can not say which.

Q. In 1878?—A. Yes, sir.

Q. How long was it from that interview until a resolution was passed by the Producers' Union, if there was one, to present a petition to the secretary of internal affairs General McCandless?—A. I do not think a resolution was passed to present that petition; I think that was done without a resolution of council; I would not be certain about that; that is to the best of my recollection.

Q. That movement by petition to the secretary of internal affairs was outside and independent of any action of the council as a body?—A. I did not say that; it was recognized as a part and parcel of this proceeding; but I do not think it was ever done by resolution; there was discretion given to use every method.

Q. There was no action taken, such as in the case of the appointment of the committee of twenty-five to see the governor?—A. I believe not; I would not be positive; I do not remember those things.

Q. Who first, to your knowledge, suggested the presentation of that petition to the secretary of internal affairs?—A. Mr. Africa, I believe, stated that the secretary of internal affairs had powers of investigation.

Q. J. Simpson Africa?—A. Yes, sir.

Q. What position did he hold at that time?—A. I understood he was chief clerk in that office.

Q. What office?—A. Secretary of internal affairs.

Q. Is he a Republican or Democrat?—A. A Democrat.

Q. When he made that suggestion out of which that petition grew to whom did he make it?—A. I can not tell you.

Q. As near as you can recollect?—A. I can not tell; it would be impossible for me to say.

Q. What makes you say that it was J. Simpson Africa that made the suggestion?—A. He first brought to our notice, as I understand, the act of assembly under which an investigation might be performed.

Q. To whose notice did he bring it?—A. Probably to the counsel of the Producers' Union.

Q. Do you know whether it was to Mr. Patterson?—A. I do not; it is mere guesswork to attempt to tell you; the first knowledge came from him.

Q. Was that in a communication from him to Mr. Sherman, counsel of the Producers' Union?—A. I think not, sir.

Q. But it did lead to an investigation eventually?—A. As a matter of course; we were willing to try every means of redress.

Q. But it was rather an outside movement than one authorized by the Producers' Union?—A. I am not prepared to say whether there was a resolution or not authorizing it.

Q. I understand you that the idea of redress by petition to the secretary of internal affairs originated with Mr. J. Simpson Africa?—A. I did not say that; I say Mr. Africa first brought to our notice knowledge of the law giving that power to the secretary of internal affairs.

Q. How long was that after the committee of twenty-five had been selected and had the interview with the governor?—A. I can not tell you.

Q. Was it a week?—A. I can not tell you.

Q. It was after, was it?—A. I can not tell you that; I have a great many things to think of, and I can not tell you.

Q. I asked you on the former examination if you would state the membership of the Producers' Councils in the oil regions?—A. I can not.

Q. Having had time to think of it can you tell?—A. I have no data; I could not get any actual data; we have had some eight reports of the union, but they are changing very much.

Q. What would be your best estimate of the membership?—A. It would be mere guesswork, sir; we have over 2,500 names on the roll, but whether it has increased or diminished it would be hard to say.

Q. Does it contain a majority of the oil producers of Pennsylvania?—A. I can not say that; in the region where I am it has a very large membership; you can judge from that.

Re-direct examination by Mr. SHIRAS:

Q. When you spoke, in reply to a question from Mr. Hampton, that if the supply were less than the demand of this crude oil production, or if the supply and demand were equal, that it would cause a rise of price at the wells; were you speaking of a case where the facilities of sale and transportation were open and free, or did you have in view the case of sale and transfer, or power of sale and transfer, being hampered by the arrangements of others?—A. I believe it would have a certain effect in either case—a much greater one in case of unlimited trade. I can give a fair example of what occurred in the trade. In the fall of 1876 refined oil reached the price of 32 cents a gallon in New York. If the producer had received his fair share of that he would have got from \$8 to \$10 a barrel for his oil, the transporter could have received the open rate, and yet with the refiner there would be a larger profit than ever known; we received only \$4.20, the highest price paid at the wells with refined at 32 cents at New York.

Q. Is it not a fact that the effect upon the market price of oil, of the relation of supply and demand, would largely depend upon the freedom of sale and transporta-

tion of the product?—A. Certainly, because then you get the real demand instead of the demand that was permitted to reach you.

Q. With respect to your visit to the governor and by the committee and of your request of him to call a special session of the legislature, if I understand you, the suggestion came from him that there were remedies granted by the laws as they then existed which could be enforced without the necessity of calling a special session?—A. Entirely from the governor.

Q. After an attempt to enforce the laws as they now exist was agreed upon, state whether or not the forms of remedy and the selection of defendants, to make the laws effective, was dictated and arranged by the attorney-general and his assistants.—A. I have already stated that I believe that matter was settled solely between the attorneys engaged in the case—they and the attorney-general. I wrote to the attorney-general shortly after these proceedings were commenced asking for permission to employ associate counsel, stating the names of the gentlemen now engaged in the case. He answered that if I had not written to him he would have required us to do it, as he was not sufficiently posted on the subject and had not time to attend to it, and he approved of the selection I had made. Since that time they alone are responsible for the form of legal proceedings—they and the attorney-general, representing the Commonwealth, are solely responsible for the form of the legal proceedings.

Q. You have been asked your opinion as to the effect of an injunction, if obtained in this proceeding, against the Pennsylvania Railroad Company; state whether or not the result of the finding of the law and the declaration of the law by the supreme court against the right to discriminate by common carriers, and taking the form of an injunction against the principal common carrier of the State would or would not have an effect in regulating the transportation of oil and the establishment of open rates in respect to all common carriers from the oil regions proceeding through or out of Pennsylvania.—A. It is my belief that if the railroads were to charge an open rate as low as the present actual rate is shown by the evidence given that it would fix and establish the rate, as the Pennsylvania Railroad, in my belief, is better able to carry at that rate than any of its competitors carrying a much longer distance.

Q. Is it or not your opinion if by injunction the Pennsylvania Railroad were restrained from making discriminations as between shippers in the carriage of oil that that would itself tend to regulate and prevent discrimination by other common carriers from the oil country?—A. I do, sir.

Q. Is the Producers' Union open to all producers who may desire to join it?—A. To any one, sir.

Q. With respect to the Standard Oil Company being proceeded against within the State of Pennsylvania, has that organization such known officers or such avowed agents that they could under any law that you know of be served with processes?—A. Certain gentlemen have declared themselves to be directors in that company—Mr. Vandergrift and Mr. Lockhart, I believe; I do not know whether that would be sufficient to base an action against them or not.

Q. In the estimates and judgments formed, and as to which you have been interrogated in various forms, as to the amount of production, what is your source of information or data on which you form your judgment and express it?—A. The reports of the United Lines and of other pipe lines, although the United is so much larger than the others that it is the great source.

Q. Do they form the basis of the reports of statisticians, Mr. Stowell and others?—A. Mr. Stowell stated in my presence in his testimony that he gathered his information from the pipe lines.

Q. Is there any mode whereby to those who act upon, or are expected to act upon them, the correctness of those reports of the pipe lines is verified to the public?—A. We take their monthly reports; that is all we have.

Q. Are those monthly reports confided in as being beyond doubt correct by the people up there?—A. There is a wide diversity of opinion on that.

Q. State whether there has been, if you know, complaint or distrust entertained in the oil community there of the correctness of the pipe line reports.—A. I have heard that discussed and expressed; whether correct in it or not I am unable to state.

Q. Do you know whether the act of assembly prescribed the method whereby the reports of these pipe lines are to be verified to the public?—A. It does.

Q. That is by the act of assembly, May 22, 1878, I believe; I wish you would state whether the reports of the pipe lines, under the act of 1878, have in point of fact been verified by the officers of the pipe lines in the way and manner prescribed by that statute, if you know.—A. In my opinion they have not.

Q. In what respect, in your judgment, are those reports not verified as prescribed by the statute?—A. I never considered them signed by the proper officer.

Q. Who is the president of the United Pipe Lines?—A. Mr. Vandergrift.

Q. Who is the secretary?—A. Mr. Hughes.

Q. Who is the treasurer?—A. Mr. Campbell is the treasurer; Mr. Hopkins is the general superintendent.

Q. Do any of those officers, in point of fact, verify any of these monthly reports?—A. They do not, to my knowledge; I have seen a great many of them.

Q. Who do verify them?—A. The first report was verified by one man alone, Mr. Lay, a man I do not know. Latterly they have been verified by Mr. Moore and Mr. Lay—the last I saw.

Q. Do you know whether there are in the oil regions any refiners not connected with the Standard Combination who are not members of the Producers' Union?—A. I only know from the testimony that there are two outside refineries, the testimony of Mr. Archbold, that there are two outside refineries in Titusville; I know of one small one of about 20 barrels in Parker; that man belongs to the union. I know of one refiner here, Mr. Reichard. Those are all I know in western Pennsylvania.

Mr. HAMPTON. There is one down at Beaver.

The WITNESS. I said all that I know of. There is one at Beaver, I believe; at Freedom, I think I stated.

Mr. SHIRAS. You were asked by Mr. Hampton, on cross-examination, whether oil was not shipped to refiners at Philadelphia. I want to know what refiner's oil is shipped to Philadelphia outside of the combination; can you name any?

The WITNESS. Malcolm Lloyd, I believe.

Q. What is the size of his establishment?—A. I do not know, sir.

Q. Is that the only one you know of?—A. Mr. Logan has a refinery there, but I think it has never run any yet.

Cross-examination by Mr. HAMPTON resumed:

Q. What year was it that refined oil reached 32 cents in New York?—A. Eighteen hundred and seventy-six.

Q. What did that make a barrel in New York?—A. There are about 50 gallons to a barrel—about \$16.

Q. Then you got during that time, you say, \$4.20 at the wells?—A. Yes, sir; of 42 gallons.

Q. At that time what was the average cost of producing a barrel of crude at the wells?—A. I could not pretend to tell you; no man can answer those questions; we do not know.

Q. Would it cost \$1.50?—A. In the country where that was produced we had to pay very large prices for the land, high prices for the machinery, and high prices for drilling the wells.

Q. Would not \$1.50 fairly cover the cost of production?—A. No, sir; it would not.

Q. Would \$2?—A. It would leave no margin of profit.

Q. Would not \$2 cover the entire cost of producing a barrel of crude oil in the oil regions at this time?—A. I do not believe it would; I never figured as low as \$2; not on the basis of the price we paid for property.

Q. I am speaking of the actual cost of the production of the oil, considering the appliances used in getting the oil out of the earth, and the labor employed at the well?—A. As oil advances, the price of property advances very much, the price of machinery goes up, and the price of drilling goes up.

Q. I am speaking of that particular time. At the wells you have knowledge of, would not \$2 pay a very large margin over the cost of production?—A. I do not consider it would, considering the risk of the business; the producer runs the risk, the refiner does not.

Q. Would \$2.50 cover the actual cost of production, including the wear and tear of machinery, etc.?—A. We could live at that, I suppose.

Q. So that it would leave in the neighborhood of \$2 clear profit at the well?—A. You will have to figure very fine to put the cost at \$2.50.

Q. It would leave you about \$2 at the wells as a profit on your oil?—A. Yes, sir.

Q. In 1876 what were the rates of freights as compared with what they were in 1878?—A. I can not tell you that.

Q. Were they higher or lower?—A. I could not tell you that. The open rates were the same, I believe. I can not tell you as to those rebates; we had hard work to get at 1878.

Q. Mr. Shiras asked you if the service of legal process could be had on the Standard Oil Company through any of its agents in Pennsylvania. You can state whether one or two of the directors do not live here.—A. I said two of the directors.

Q. Who are they?—A. Mr. Vandergrift and Mr. Lockhart say they are directors.

Q. Where does Mr. Vandergrift live?—A. At Oil City.

Q. Mr. Lockhart lives where?—A. In this city.

Q. During this examination and cross-examination of yourself, have you not repeatedly affirmed the accuracy, in your judgment, of Mr. Stowell's statistics?—A. The accuracy of his making the statistics.

Q. And the source from which he derived them?—A. As to the source, he stated very clearly he took them from the pipe lines. We have to govern ourselves by them as all we have.

Q. The statistics are made up from reports of the pipe lines and from the report of oil carried by the different railroads out of the oil regions?—A. He stated that he got them from the railroads and pipe lines.

Q. And from the monthly reports of the export of oil from New York?—A. Yes, sir; I have no doubt that is correct; the local trade we do not know so much about. What I want to say is, that I believe Mr. Stowell did his work faithfully from the data he had.

By Mr. SHIRAS:

Q. You do not wish to say that those data in themselves are correct?—A. I do not know anything about that.

By Mr. HAMPTON:

Q. Don't you know that Mr. Malcolm Lloyd, of Philadelphia, has a very large refinery in constant operation not controlled in any way by the Standard Oil Company?—A. Personally I do not know anything about it; it has been so stated.

Q. You do not know its capacity?—A. No, sir; I never was there.

Q. Do you know how many refiners there are in Baltimore?—A. To my own knowledge there are none outside of the Standard.

Q. How are they supplied with crude oil?—A. I can not tell you, sir.

Q. You don't know that fact?—A. I do not know. They used to receive some oil by the Baltimore and Ohio road, and some by the Northern Central.

Adjourned to meet at the Girard House, Philadelphia, on Tuesday, March 4, 1879, at 10 o'clock a. m.

A. J. CASSATT was duly sworn in the case *The Commonwealth v. The Pennsylvania Railroad Company*, and testified as follows:

Mr. MACVEAGH. I desire to make the suggestion that in view of the knowledge Mr. Cassatt has of this business generally, that instead of the detailed form of questions which have been used with other witnesses whose knowledge is not so extensive the gentlemen will perhaps find it to their advantage to ask some general questions which will enable him to state in a connected way his knowledge about a particular subject, and then supplement that by any detail questions that they may wish to ask, so as to enable us to get at the substance of this thing rather than not to get at it.

Direct examination by Mr. ACHESON:

Q. What is your connection with the Pennsylvania Railroad Company?—A. My title, sir, is third vice-president, and I have charge of the transportation department, including the freight and passenger business also.

Q. How long have you filled the position of third vice-president?—A. Since July, I think, 1874.

Q. I wish you would state, sir, whether or not on the 1st of January, 1877, and at and about that time, petroleum from the oil-producing regions of Pennsylvania was transported over the Pennsylvania Railroad and its connections; and if you say it was, state briefly the mode in which the business at that time was conducted.—A. The route by which it was carried?

Q. And the facilities for transportation and the method of conducting the business.—A. Well, at that time nearly all the oil business of the Pennsylvania Railroad was done by the Empire Line, a private corporation with which we had a contract; the routes to the sea-board, Philadelphia, Baltimore, and New York by our lines from the different regions—do you want me to state the routes?

A. Yes, sir.—A. From Pittsburgh by the West Pennsylvania road to Blairsville; thence by the main line to Philadelphia; oil by that route going to New York went off at Harrisburg over the Reading line and Lehigh Valley and New Jersey Central; oil going to Baltimore was diverted at Harrisburg to the Northern Central; oil from the old Parker district was carried over the low-grade line to Driftwood; thence to Sunbury, and from there over the Danville, Hazelton, and Wilkes Barre road to Tomhicken, and thence over the Lehigh Valley and New Jersey Central to New York, or to Philadelphia it was carried over the Northern Central to Harrisburg, and thence by the Pennsylvania main line, or to Baltimore it went direct to Baltimore on the Northern Central; oil from the Bradford district was carried by the Buffalo, New York and Philadelphia Railroad to Emporium, and thence to Philadelphia over the Northern Central and main line of the Pennsylvania Railroad from Harrisburg, and if to Baltimore, directly to Baltimore by the Northern Central, and if to New York, it was carried by Tomhicken, the Lehigh Valley and New Jersey Central route.

Q. Now state, if you please, in a general way, what the connection, at that time, was between your company and the Empire Transportation Company with respect to the

transportation of oil.—A. The Empire Transportation Company had a contract with us by which they provided the cars, the soliciting agents, and did all the business connected with the transportation of oil, except the mere hauling of the cars, from every district except Pittsburgh; there they did not go; there we carried with our own cars as a local business. For the work they did in soliciting, collecting freights, and managing the business generally we paid them a percentage of our net receipts from the business after paying the rebates, etc.; the rates were made by the Pennsylvania Railroad Company always.

Q. That, you say, was under a contract?—A. Under a contract.

Q. Now, I wish that you would state what the then facilities of the Empire Transportation Company were for transporting oil from the oil regions of Pennsylvania—from the oil wells—to the Eastern markets and the sea-ports.—A. Do you mean as to the number of cars, and soon?

Q. Yes, sir; and their facilities generally for gathering the oil and transporting it.—A. They had a thousand, in round numbers, tank cars—iron tank cars—for carrying crude oil, and they had 400 cars known as rack cars for carrying refined oil; that was the extent of their car equipment. The Empire Transportation Company also owned or controlled the Union Pipe Line Company, which had pipe lines from the region reaching nearly every source of supply and carrying oil to the railroad connections in the region; those were the facilities.

Q. Did the Empire Transportation Company own or control any refining interests?—A. At that time they did, I believe.

Q. Where were their refineries, sir?—A. They had an interest in a refinery at Communipaw, at New York, on New York waters, close to the Jersey shore, and they were building at that time, I think, a refinery in Philadelphia known as the—I have forgotten it—down here on the Neck.

Q. State whether subsequently, in the year 1877, the Empire Transportation Company increased its refining facilities by leases.—A. I do not recollect that it did; it increased its capacity in New York, I believe, by increasing the size of the works there; I do not recollect that they leased any refineries.

Q. How was it in Philadelphia as to increasing their refining interests?—A. This was entirely new in Philadelphia; they commenced building in Philadelphia either the latter part of 1876 or the early part of 1877, which was not completed until the middle of 1877.

Q. What was its capacity?—A. About 6,000 barrels of crude per day, I think, was its capacity; I don't think they worked it up to that.

Q. Are you acquainted with the organization known as the Standard Oil Company?—A. Yes, sir.

Q. Was, sir, the Standard Oil combination, about the 1st of January, 1877, and shortly thereafter, transporting its oil over the Pennsylvania Railroad or the routes operated by the Empire Transportation Company?—A. It was; yes, sir.

Q. State whether or not in the year 1877, and subsequent to the 1st day of January, that combination ceased so to transport its oil.—A. It did, about March or April, of 1877, cease to ship any oil by the Pennsylvania Railroad Company's lines.

Q. It ceased to ship any?—A. Yes, sir.

Q. And how long did that condition of things continue?—A. Until the 17th of October of that year.

Q. That was the date, sir, at which the contract in evidence in this case was made [paper shown witness]?—A. Yes, sir; that day.

Q. You say, sir, the Standard Oil combination ceased to transport its oil by the Pennsylvania Railroad route, in March, I think you said?—A. In March—March, I think—March or April.

Q. Can you state, sir, and if so, please state to the master if you know the reason why the Standard combination at that time ceased to transport its oil by the Pennsylvania routes?—A. Because the Empire Transportation Company, which was the organization which transported the oil over our lines, had engaged in the business of refining oil; the Standard Company complained to the officers of the Pennsylvania Railroad Company that they did not get fair treatment from the Empire Transportation Company in the matter of the distribution of cars when cars were scarce; that they did not believe they got as good rates as the Empire Transportation Company did, and that in every possible way the Empire Transportation Company, they believed, favored their own refineries as against theirs, and they took the position and stated that they would not be subject; they would not transport their oil by an organization which was also a rival of theirs in the refining business. We endeavored to try to get those difficulties harmonized; talked of getting the Empire Transportation Company to lease its refineries to the Standard Oil Company or put them into other hands, but we did not succeed in doing that and bringing these two companies together in that, and it resulted in a complete breach, and the Standard Oil Company took their business off our road, and we had a very severe contest from the time they did so until the 17th of October. During that time the Empire Transportation

Company itself did all the refining it could in competition with the Standard, and all the other refineries not connected with the Standard Oil Company we induced to come on our line and ship, but we did it at a very great loss to the company. We paid very large rebates; in fact, we took anything we could get for transporting their oil; in some cases we paid out rebates more than the whole freight. I recollect one instance where we carried oil to New York for Mr. Ohlen, or some one he represented, I think at 8 cents less than nothing.

Q. What time was that?—A. That was between March and the 17th of October. The way the business was done we instructed the Empire Line to get all the trade they could. They bought of the owners of the pipes. They bought the oil; we practically bought of the pipe lines at that time. They bought the oil from the producers, and we instructed them to sell to the refineries in New York, other than the Standard, at such prices as they could get. Then the difference between what they paid for it in the region and what they got at Baltimore, Philadelphia, or New York was our freight. They rendered us a statement every month. As I say, there was oil carried there at 8 cents less than nothing during the fight; I do not say any large quantities, but oil was carried at that rate. The rates were very low. The difference between the selling price in New York and the purchasing price we repaid to the Empire Line, who repaid it to their shippers.

Q. That is to say that the price in the oil region was 8 cents higher than at the sea-board?—A. On that particular lot I speak of; yes, sir. I merely mention that as an instance of how low we carried in some cases.

Q. Do you know, and if so, explain, how the price in the oil regions became so elevated and the price at the sea-board depressed?—A. That is rather a difficult thing to explain; the markets fluctuate. I am not familiar with the oil market, but I know it was the case in this instance.

Q. Was not it because the Standard combination manipulated the market?—A. They did it to our detriment all they could, no doubt about that; they endeavored to injure us and our shippers all they could during that fight.

By Mr. MACVEAGH:

Q. You pursued the same policy, I suppose?—A. We did the same thing.

By Mr. ACHESON:

Q. At that time through whom was the Standard combination doing its business from the wells to the sea-board?—A. By the New York Central, and the New York and Erie Railroads, the Baltimore and Ohio Railroad, and to a limited extent to Philadelphia by the Reading Railroad, by the New York and Erie road to Waverly, thence by the Lehigh Valley and Reading to Philadelphia.

Q. And from the wells, how was the Standard combination doing its business?—A. Through the connections of these several roads. For instance, the Baltimore road; they had a pipe line leading to Pittsburgh by which they transported oil to the Conellsville road.

Q. Was that pipe laid in 1877?—A. The Conduit Line was laid in 1877; they used that line.

Q. Do you know when the Conduit Line passed into the control of the Standard Oil Company?—A. Not of my own direct knowledge; I understood it was about the time we made our contract, in October some time, 1877.

Q. What were their connections with the northern roads from the wells?—A. They had various connections; the New York and Erie Railroad got its oil from Bradford through a pipe line running directly to its own road, at or near Olean.

Q. Who owned that pipe line?—A. It was owned by the United Pipe Lines. The New York Central got oil from Oil City through the Pittsburgh, Titusville and Buffalo Railroad to Titusville or to Irvington, and thence over a line from Irvington to the Lake Shore road; I have forgotten the proper title for it.

Q. Through what pipes was it received from the wells?—A. The United Pipe Lines in each case.

Q. Who then, at that time, were in league with the Standard Oil Company and in combination against you?—A. The New York Central Railroad, the Erie Railroad Company, the Baltimore and Ohio Railroad Company, the Lehigh Valley Railroad Company, and the Reading Railroad Company were the railroad companies that transported the Standard Oil Company's oil in competition with us.

Q. And the Atlantic and Great Western?—A. Yes, sir; and the connections of these different roads.

Q. State whether the United Pipe Lines were a party to that combination against you.—A. Yes, sir; they were to the same extent as the other companies were; that is to say, they transported the oil shipped by the Standard Oil Company, or for their account, in competition with us, and in competition with our pipe-line connections.

Q. I understand you to say that these railroad companies you have named united with the Standard Oil Company and with the United Pipe Lines in combination against the Pennsylvania road?—A. Well, yes; I suppose it might be called a combination;

they transported their oil in competition with us at rates we didn't know anything about, but in competition with us.

Q. And the Standard, as you have already explained, manipulated the market?—A. I don't know as I stated that exactly; you stated it and I stated it might be so; you asked me how the oil happened to be sold at higher rates in the region than in New York; I said it was because of the fluctuation of the market; I could not explain; you asked me whether the Standard Oil Company manipulated the market; I said I supposed so—so much as they could.

Q. Did you intend to say that the Standard Oil Company, in your judgment, depressed the market in New York in order to coerce the Pennsylvania Railroad?—A. I really can not say whether they did or not; they were not aware of this arrangement we had with our shippers; that is, I think they were not; they believed we made certain rates to shippers, and they were fighting them and not us.

Q. But they were really engaged in a war upon you?—A. Undoubtedly, backed by all these other lines I speak of.

Q. Did you understand at that time that these railroad companies and the United Pipe Lines had united with the Standard Oil Company in order to force the Empire Transportation Company out of the refining business?—A. I believe they did; I believe that was the object of their onslaught upon us.

Q. In the summer of 1877, state whether any of the officials of the Standard Oil Company, or persons representing that combination, were in treaty with the Pennsylvania Railroad Company in reference to the matter of oil transportation?—A. They were, sir.

Q. About what time did these negotiations begin?—A. In August, 1877.

Q. Who, on behalf of the Standard Oil Company, made negotiations with your road?—A. Mr. John Rockafeller, the president of the company, and Mr. H. M. Flagler, the secretary; there were others, of course, who were talked to, but these were the gentlemen principally conducting it.

Q. John B. Rockafeller, I believe, is president of the Standard combination?—A. President, yes, sir; and Mr. Flagler the secretary.

Q. Will you name any other parties connected with the Standard combination that were active in the negotiations with your road?—A. Mr. Warden, of Philadelphia.

Q. William G. Warden?—A. William G. Warden, to a certain extent. I think that comprises them all; Mr. William G. Warden was the only other that took an active part.

Q. Was Mr. Charles Lockhart, of Pittsburgh, present at any of these negotiations?—A. I think he was towards the close, when we had agreed upon all the terms of the arrangements, not at the outset; he took very little part in it.

Q. On the part of the Pennsylvania Railroad Company, who conducted the negotiations with the Standard people?—A. I did in the outset; I went to Cleveland in August of 1877; I went there twice, either both times in August, or once in August and the second time in the early part of September; afterwards they came here.

Q. Whom did you meet in Cleveland?—A. Mr. John Rockafeller, Mr. Warden, who was staying there with him paying him a visit, and Mr. Flagler; afterwards those three gentlemen came on to Philadelphia, and then Mr. Scott took part in the negotiations, took charge of the negotiations.

Q. You mean Thomas A. Scott?—A. Yes, sir; I was present at all the interviews, however.

Q. Be kind enough to state when those gentlemen representing the Standard combination first met the representatives of the Pennsylvania road in Philadelphia, and where?—A. I can not state exactly the date. It was during September, and it was at the St. George Hotel.

Q. Will you now state who were present at that interview?—A. Mr. John B. Rockafeller, Mr. H. M. Flagler, Mr. Scott, and myself.

Q. Were there any counsel present at that interview?—A. No, sir.

Q. I wish you would state what was the subject of discussion at that interview, and what it led to, if anything.—A. The subject of discussion was to see whether we could not make some contract or agreement with the Standard Oil Company by which this contest would cease, which was costing our company a great deal of money and loss of revenue, and the object to be obtained was that of making some arrangement with them, which was done. The nature of the arrangement you have before you in this letter.

Q. In this contract of October 17, 1877?—A. Yes, sir; there were other collateral questions involved—this purchase by our company of the Empire Line's plant and rolling stock, and the purchase by the Standard Oil Company from the Empire Line of its refining interest and its pipe lines. That came about in this way: We made up our minds that it was a mistake for the Empire Transportation Company, as a transporter, as representing us in the transportation of oil, to be in the refining business. The New York Central and the Erie railroads, and the Baltimore and Ohio Railroad looked upon it with jealousy, and the Standard Oil Company also, and we endeav-

ored to get the Empire Line to assent to disposing of its refining interest, which they declined to do; and then they said, "Rather than do that, we had rather you would buy us out and close our contract with you."

Q. The Pennsylvania Railroad had the option, under its contract with the Empire Transportation Company, to purchase it out?—A. They had. The position the Empire Line took in that matter brought up these collateral questions.

Q. What did the Standard people insist upon with reference to that purchase?—A. They simply insisted that they could not make any arrangements with us for the transportation of their oil so long as that transportation was carried on by an organization which was their rival in the refining business. They insisted that the first step towards making a specific contract with them must be that we, or our representatives in the oil business, must go out of the refining business. In that they were supported by the New York Central Railroad, the Erie Railroad, and by the Baltimore and Ohio Railroad, all of which companies looked with a great deal of jealousy upon our having any control of the refining business, which we had through the Empire Line. They claimed it was not our legitimate business, and that it gave us a control of the business they did not have, and it was a constant menace to them.

Q. I want to ask you here when it was that the Empire Transportation Company commenced building its refinery in Philadelphia?—A. It was the latter part of 1876 or the early part of 1877; I can not exactly state when.

Q. Was it after the Standard had threatened to withdraw its patronage from your road?—A. Well, they had not threatened to withdraw their patronage from our road at the time but they had protested very strongly against the Empire Line being interested in that New York refinery I spoke of before, and had complained that the Empire Line was giving facilities to that refinery on account of their interest in it they did not give to them, and had been endeavoring for several months to get us to insist upon the Empire Line going out of that refining business.

Q. That is, the refining business in the city of New York?—A. Yes, sir.

Q. And it was subsequent to this complaint that the Empire Transportation Company built its refineries in the city of Philadelphia?—A. Yes, sir; and it was the building of this refinery that caused the final rupture with the Standard Oil Company.

Q. The Standard Oil Company were engaged in part in refining oil at that time?—A. That was their business.

Q. At that time was the Standard combination the owner, or had they a controlling interest in the United Pipe Lines?—A. I can not answer that of my own knowledge. It is a matter of general belief that they had. I do not know that they have a controlling interest. I should correct that.

Q. Did you at the time of these negotiations, and at the time this contract was entered into, understand that the Standard Oil Company controlled the United Pipe Lines?—A. No, sir; I did not, and I do not understand it now. They say they do not control the United Pipe Lines as a company. They tell us that they do not control the United Pipe Lines.

Q. Notwithstanding what they say, is it not a fact that they do?—A. What I know I only know from what they tell me.

Q. At the time of these negotiations, and at the time this contract of October 17, 1877, was made, was it not your understanding that they practically controlled the United Pipe Lines?—A. No, sir; it was not; because they always assured us that they did not control it. They had a large interest in it, I have no doubt.

Q. At that time the United Pipe Lines were co-operating with the Standard Oil Company?—A. Undoubtedly.

Q. I understood you to say that the Standard people insisted that you should purchase out the Empire Transportation Company.—A. No, sir; they did not.

Q. What did they insist upon?—A. What I stated was this: They insisted that the first condition of their coming back on our line to ship oil over our road must be that the Empire Transportation, which company did all our oil business, represented us in the oil business, must cease refining oil in competition with us. The Empire Transportation Company objected to going out of the refining business, and called upon us and asked us to buy them out and close out their contract; they said they would prefer to be bought out and go out of the business entirely rather than to go out of the refining business.

Q. That is to say, the Standard people insisted that they should?—A. Cease the refining of oil as a rival of theirs. As I said before, in that they were supported by the other three trunk lines.

Q. Who, representing these trunk lines, communicated that to you?—A. Mr. Vanderbilt on many occasions objected to our having any interest, directly or indirectly, in the business.

Q. Was he present at Philadelphia?—A. No, sir; at New York he did at various times. Mr. Jewett took the same position. Both on many occasions objected strongly to our company, directly or indirectly, or through any of its agencies, being inter-

ected in the refining business; so did the Baltimore and Ohio Railroad, through Mr. King and Mr. Garrett and others at various times.

Q. Was either Mr. Vanderbilt or Mr. Jewett a member of the Standard combination?—A. Not to my knowledge. You mean stockholders or interested personally in it?

Q. Yes, sir; either as stockholders or otherwise.—A. Not to my knowledge.

Q. What other terms, if any, did the Standard combination insist upon?—A. That was the only point that they insisted upon; that was the first condition that they made. Then, when the Empire Transportation Company decided that rather than sell out their refining interest, which they thought was bad policy—there we differed, you know—then the question came up as to who should buy this plant of the Empire Transportation Company. The Standard Company wanted us—somebody had to buy it. They offered to buy the refining interest. They wanted us to buy the pipe line and cars. We objected to buying the pipe lines; said that was out of our province, and we insisted that they should buy the pipe lines, and it resulted in their buying the pipe lines and refining-plant property.

Q. Did they buy from the Empire Transportation Company or the Pennsylvania Railroad Company?—A. They bought directly from the Empire Transportation Company. We bought the cars directly from the Empire Transportation Company, paying them in car stock certificates, and they bought the refining interest in pipes, paying them in cash, and the negotiation, the principal part of the negotiation after we got that far, was to bring these two parties together as to the price.

Q. Where were these negotiations conducted?—A. In Philadelphia.

Q. Who represented the Standard people?—A. Mr. Rockefeller and Mr. Flagler, mainly.

Q. John D. Rockefeller?—A. John D. Rockefeller, president, and Mr. Flagler, secretary; Mr. Warden had something to do with it; and I think when the proceedings got pretty near the close Mr. Lockhart was here.

Q. Was he here more than once?—A. I think only once; but he did not take an active part, so far as we were concerned; he might with his partners.

Q. Did any one in these negotiations represent the United Pipe Lines?—A. No, sir; we had no negotiations with the United Pipe Lines at all.

Q. Are we to understand you that the proposition from your road was that the Standard combination should buy the United Pipe Lines?—A. The Union Pipe Lines; no, sir; the Standard Oil Company wanted us to buy the pipe lines, which we, as I said, declined to do; we did not care about investing a large sum of money in that sort of property, and we insisted that they must be the ones to buy them, which they did; I am not positive about it, but I think they afterwards consolidated that Union Pipe Line with the United Pipe Line; but our negotiations were entirely with the Standard Oil Company; what they did with the property afterwards I am not positively able to state, but I think that Union Pipe Line property was all consolidated afterwards with the United Pipe Line.

Q. Who, if anybody, represented the Empire Transportation Company at your negotiations with the Standard people?—A. Mr. Joseph D. Potts, the president of the company, Mr. H. H. Houston, and Mr. William Thaw, of Pittsburgh.

Q. When did you finally come to an agreement?—A. On the 17th of October.

Q. The paper bears date the 17th of October. Did you not come to an agreement before that day?—A. No, sir. The agreement can not be said to have been settled until the papers were signed. There were open questions up to that day that were settled on that day.

Q. At what time had you reached a substantial agreement?—A. I think about the 1st of October. The agreement would have been probably perfected about that time, except the counsel for the Empire Line thought it was necessary they should advertise the fact that they were going to sell this property, and have a meeting of their stockholders, and get the assent to the sale before the papers were finally signed. I do not know what length of time that was, but I think it was about the 1st of October, and they advertised for two weeks, and had their meeting, I think, on the 17th. That day, and after the meeting was over, the papers were finally signed and the transfer made.

Q. Who were present representing the various parties on the 17th of October 1877?—A. When the papers were finally signed and the transfer made, you mean?

Q. Yes, sir.—A. The meeting took place at Mr. Potts's office, at Girard street, Philadelphia, and there were present, on behalf of the Pennsylvania Railroad Company, Mr. Scott and myself; on behalf of the Empire Transportation Company, Mr. Potts, Mr. Houston, and, I think, Mr. Thaw; on behalf of the Standard Company, there were Mr. William Rockefeller, the vice-president, Mr. Flagler, Mr. Chester, who is counsel for the Standard Company, Judge Porter, of Philadelphia, who is counsel for the Empire Line, and there were several other gentlemen present connected with the Standard Oil Company; I do not think I could name them all.

Q. Was Mr. Lockhart present then?—A. Mr. Warden was present, and, I think, Mr. Lockhart.

Q. William G. Warden and Charles Lockhart?—A. Yes, sir.

Q. Mr. Charles Pratt also?—A. Mr. Pratt was there also.

Q. Was Mr. J. A. Bostwick present?—A. Mr. Bostwick; yes, sir.

Q. Mr. Daniel O'Day?—A. I think he was, but I am not positive.

Q. Do you know what interest Mr. O'Day was representing?—A. I do not; I know that he is manager of the American Transfer Company, but what he was representing there I do not know; he has nothing to do with us—with our negotiations—oh, Captain Vandergrift was there also.

Q. You mean Mr. J. J. Vandergrift?—A. Yes, sir; known as Captain Vandergrift.

Q. Did you understand at that time that he was president of the United Pipe Lines?—A. I knew that he was; yes, sir.

Q. Who was he representing?—A. He is director of the Standard Oil Company; I was not aware who he was representing there; he never took any part in the negotiations before.

Q. He then stood in the double relation of director of the Standard Oil Company and president of the United Pipe Lines?—A. Yes, sir; as I said before, we had no negotiations or direct dealings with the United Pipe Lines at all, or indirect either.

Q. Had he no negotiations with the gentlemen who were present there at that time?—A. I do not think Mr. Vandergrift took part in the discussion at all.

Q. He was present?—A. He was present; I do not know why; he was present and saw the checks pass, the contracts signed, and all that; I did not ask him what he was doing there. Mr. W. J. Howard was there as counsel for the Pennsylvania Railroad.

Q. Was there present any parties representing the refining interest?—A. Yes, sir; the partners with the Empire Transportation Company in the refinery in New York, of which they were part owners; they were Messrs. Sloane and Fleming, of New York; these gentlemen were also interested in the refinery the Empire Transportation Company had built in Philadelphia.

Q. So that the Empire Transportation held merely an interest in these refineries?—

A. An interest only—a controlling interest, I believe.

Q. Now, you have named all that were present at that interview, so far as you can recollect?—A. So far as I can recollect, I have, sir.

Q. Please state what was done at that interview.—A. Well, the papers were signed. In the first place, this contract you have before you between the Standard Oil Company—this letter which is intended to be a contract, the letter addressed to Mr. Scott, and his reply—were both signed at that meeting; in the next place, the contract between the Pennsylvania Railroad Company and the Empire Transportation Company for the purchase from that company by the Pennsylvania Railroad Company of its cars and depots; in the next place, the contract by which the Standard Oil Company bought of Messrs. Sloan and Fleming and the Empire Transportation Company the refineries in Philadelphia and New York; and, also, the contract by which the Standard Oil Company bought from the Empire Transportation Company its pipe-line interest—its stock in the Union Pipe Lines; they owned all the stock; that was the form in which it was done, that of transferring the stock; and then the checks for the money payments were passed.

Q. All was done at this meeting?—A. All at this meeting; yes, sir.

Q. You say that the cars, the rolling-stock of the Empire Transportation Company, was transferred to the Pennsylvania Railroad Company; state what, if anything, was done in the way of putting those cars into a trust and the issuing of a mortgage.—A. The cars were bought and paid for in car-trust stock; a trust was formed for the purchase of these cars, and that trust issued this stock.

Q. What was the amount of that?—A. They were two trusts formed—one of about \$900,000 for the purchase of the tank cars, the oil cars; and one of \$1,600,000 for the purchase of the general-merchandise cars of the Empire Line; that trust stock bore 6 per cent. interest, and then, I think, there was 10 per cent. sinking fund; I can give you a copy of the trust papers to show exactly the nature of them.

Q. State whether the Standard Oil Company took that car-trust stock or any amount of it.—A. As a part of the general arrangement the Empire Transportation Company sold at par to the Standard Company and that company bought from them the car-trust stock issued for the payment of the oil cars.

Q. That is to say, in other words, the Standard Oil Company furnished the money to purchase and took the stock.—A. Exactly; and took the stock. Our company did not care to furnish that much cash.

Q. You are now speaking of the \$900,000?—A. Yes, sir; the \$1,600,000 was distributed by the Empire Transportation Company to its stockholders in liquidation; the payment for the refineries which the Empire Transportation Company sold to the Standard was made in cash, so they really got cash for their refineries, the oil cars, and the pipe lines.

Q. The Standard Oil Company furnished all the cash that was paid on that occasion?—A. They furnished cash for their purchase, and, in addition, bought this car-trust stock.

Q. So that all the money that was paid was paid by the Standard Oil Company?—A. Yes, sir.

Q. You say that on that occasion the letter dated October 17, 1877, and addressed by the Standard Oil Company to Thomas A. Scott, president of the Pennsylvania Railroad Company, and Mr. Scott's reply of the same was signed?—A. Yes, sir.

Q. How long before that was the letter of the Standard Oil Company, bearing that date, prepared?—A. It was prepared several weeks before when the whole question was under discussion.

Q. Although it bears that date, it had been submitted to Colonel Scott, or the Railroad Company, prior to that time?—A. Yes, sir; it was signed on the 17th, because it went into effect on that day.

Q. This contract, as embodied in these letters, was then a part of the general arrangement that was consummated at that time?—A. It was a part of the general arrangement; yes, sir.

Q. Was there any understanding, or agreement, between the Standard Oil Company and the Pennsylvania Railroad Company entered into at that time other than what appears in these letters?—A. No, sir.

Q. Mr. Cassatt, I notice in this contract of October 17, already in evidence, that there is a provision contemplating that your company might be compelled to fill certain contracts for transportation made by the Empire Line with refiners and producers; can you state what those contracts were; with whom they were?—A. They were with a number of refiners, other than the Standard Oil Company, shipping over our line—refiners in the oil regions, refiners in Pittsburgh, Philadelphia, and in New York.

Q. They were parties other than the Empire Transportation Company?—A. Yes, sir.

Q. Could you name those parties?—A. I could not name them all, sir; I could procure a list of them, I suppose, for you; Lombard & Ayres, and Ohlen, and Bush, and several refineries in Pittsburgh, and several in the region; I think, perhaps, eighteen or twenty contracts.

Q. Were there more contracts with producers as well?—A. I think they had a contract with the Columbia Oil Company, represented by David Stewart; that was not, however, a transportation contract; that was a contract between the Empire Line's refineries and the refining companies in which they were interested and controlled with this particular company, by which they agreed to take the oil produced by that company on a sliding basis as to price—a price fixed upon the selling price of oil; but that was not a contract made by the Empire Transportation Company as a transporting company; it was made by them as refiners; that is my recollection. I know of no arrangement with producers other than that.

Q. I notice that the language of the contract is to fill certain contracts for transportation made by the Empire Line with refiners and producers.—A. Well, I do not think there were any with producers; I think that was superfluous, that word.

Q. Were those contracts carried out; that part of the stipulation complied with?—A. Yes, sir; they were carried out.

Q. When did those contracts expire?—A. They expired, all of them, on or before the 1st of May, 1878.

Q. I notice in your testimony the other day you spoke of certain efforts or methods used by the Standard Oil Company to depress prices here at the sea-board, and, as you say, intending it to the detriment of the Pennsylvania Railroad Company and your shippers, and you say that the Pennsylvania Railroad Company pursued the same policy at that time. What were the acts?—A. Won't you be kind enough to read what I said there?

Q. Yes, sir; I will just read the whole passage [reads]:

“Q. Do you know, and, if so, explain, how the price in the oil regions became so elevated and the price at the sea-board depressed?—A. That is rather a difficult thing to explain; the markets fluctuate. I am not familiar with the oil market, but I know it was the case in this instance.

“Q. Was not it because the Standard Oil combination manipulated the market?—A. They did it to our detriment all they could; no doubt about that; they endeavored to injure us and our shippers all they could during that fight.

“By Mr. MACVEACH:

“Q. You pursued the same policy, I suppose?—A. We did the same thing.”

Now, I ask you what were the acts, or what were the steps, in that direction taken by the Pennsylvania Railroad Company?—A. I would like to correct that by stating that it was our shippers, that is, the refiners and shippers who patronize our lines, that did the same; of course we, as a company, had nothing to do with it at all; we simply hauled the cars, and the Empire Transportation furnished them and

procured the business, and did all the business but the hauling of the cars. The oil was all bought in the region by the Empire Transportation Company and sold to the refiners at the sea-board, and the difference was our freight. That is all we knew about it; they made us a statement each month.

Q. Were the terms and conditions which regulated the business between the Pennsylvania Railroad Company and the Empire Transportation Company in the form of a contract?—A. Yes, sir.

Q. Written contract?—A. Written contract.

Q. Can you furnish us with a copy of that?—A. I can, sir.

Q. I would like to have a copy of it.—A. Yes, sir; you want a copy of that part relating to the oil traffic?

Q. Yes, sir; that is, of the oil business.—A. I can have a copy of it furnished; the whole thing is printed in pamphlet form; I stated on Saturday what that contract was.

Q. Are we to understand that your parties, that is, the refiners and shippers here that you identify with the Pennsylvania Railroad Company, or the Philadelphia interest, that they had a contest with the Standard Oil Company at that time, with the purpose of breaking down the price here at the sea-board, or are we to understand you to mean that that merely followed the depressed rates that the Standard was endeavoring to fix?—A. That is a thing that would puzzle me to answer. The two parties, the Standard Company on the one hand, backed up by the other three trunk lines, and our shippers on the other hand, were in a contest to secure the oil market and secure the trade; whether they reduced first, and the Standard followed, or the Standard reduced first and our shippers followed, it is impossible to say; I have no doubt there were times when they reduced first and the Standard followed, and times when the Standard reduced it first and they followed.

Q. Having reference, however, to the particular juncture that you are describing here at this time, are we to understand you as stating that there was that kind of contest between those opposite parties in which they each endeavored to break down the market here at the sea-board, or was the effort of the parties here—of the Pennsylvania shippers and refiners—were they merely compelled to follow suit as to prices at the sea-board that had been established by the efforts of the management of the Standard?—A. That I am unable to say. All I know is in this particular instance I speak of, oil was selling at a lower rate at the sea-board than at the oil regions. I do not know what produced that result.

Q. Upon page 9 of your testimony you enumerate certain transportation companies that were in league with the Standard Oil Company in this alleged combination against the Pennsylvania Railroad; you mentioned the New York Central, the Erie, the Baltimore and Ohio, the Lehigh Valley, the Reading Railroad Company, and the Atlantic and Great Western. Should you also name or include the Lake Shore?—A. Yes, sir; they were carrying oil in competition with us at that time.

Q. It is said that you did mention them, but the scribe has not it down here?—A. I think that I did mention them. You refer to it as a league against us. Of course I have no knowledge whether there was any combination or league between those companies. All that I know is that the Standard Oil Company shipped by those roads, and those roads carried it in competition with us at rates that must have been very low. Whether there was any combination or league I do not know.

Q. Your knowledge of any such league would be a mere matter of inference and not of positive knowledge?—A. A mere matter of inference.

Q. In your testimony you stated that the Pennsylvania Railroad Company in its contract with the Empire had the right to purchase out the properties of that company, and you have described later in your testimony the methods by which that right was subsequently exercised. Will you please state whether the Pennsylvania Railroad Company gave notice to the Empire of their design or desire to exercise this right of purchasing at any time before?—A. No, sir; it was not a matter of notice; it was a matter of arrangement between us—a matter of negotiation. As I said before, the Empire Transportation Company differed with the officers of the Pennsylvania Railroad Company, or the management of the Pennsylvania Railroad Company, as to the policy of their remaining in the business of refining oil, and they said to us rather than go out of the refining of oil—the business of refining oil—they would prefer we would buy them out. We had no right to force them to stop refining oil. We had a right to buy them out, and when they requested we should we agreed to it.

Q. Are you confident that the notice or the request to purchase came from the Empire people?—A. Entirely so; yes, sir; entirely so.

Q. Was that wish expressed in the shape of any written paper or letter?—A. No, sir; it was expressed verbally; it was expressed at a much earlier day than the date of this contract or these negotiations took place. It was expressed first in the fall of 1876, when the question of the advisability of the Empire Line being in the refining business first came up, and it was then that it was suggested by officers of the

Empire Line that we had better take control of this traffic ourselves and buy them out.

Q. Were those intimations made for the purpose, if you know, of resulting in the selling by them and the purchasing by your company, or were those references to a sale made for the purpose of inducing the Pennsylvania Railroad Company to comply or accede to their terms with respect to transportation?—A. I think they were made in good faith; I think that they felt that rather than cease refining they would prefer to go out of the business. When that suggestion was first made, we did not exercise the option to buy them out, but after this fight, after this contest with the Standard Company, when we renewed our negotiations with that company, then this suggestion to purchase their property came from them again, and then we acceded to it.

Q. At or about the time that these negotiations between the Standard and the Pennsylvania Railroad Company came to a settled form in the contract of October 17, was there a combination or arrangement effected between the various trunk lines, including the Pennsylvania and the other principal routes connected with the oil country, providing for a distribution or division of that traffic between the lines?—A. No, sir; there was no combination of that kind made between the lines; the sole arrangement made was that expressed in that letter.

Q. That is the one adverted to in the answer.—A. The 17th of October.

Q. Was there no stipulation entered into or arrangement effected between the trunk lines looking to a division of this oil traffic?—A. A contract made between the trunk lines looking to a division of this oil traffic? No, sir; there was not.

Q. Were there no arrangements effected which you would not characterize as a contract? You say there was no contract. Was there no arrangement or understanding in some form?—A. Not direct, sir; no; we understood at that time that the other trunk lines would not object to the arrangement or to the contract which we made with the Standard Oil Company by which we were guaranteed by that company a certain percentage of the total shipments to the sea-board.

Q. Was it your understanding that the Standard Oil Company had a similar, or a somewhat similar, contemporaneous contract or arrangement with the other trunk lines?—A. We understood that the other trunk lines would not object to this arrangement being made with us.

Q. Did your information go so far as to let you know that the Standard Oil Company had, in point of fact, effected a similar, or somewhat similar, arrangement with the other trunk lines looking to a division of the oil traffic?—A. We had no direct information on that subject, but we understood and believed they had an arrangement with the other trunk lines by which they made them similar guaranties of tonnage; just exactly the nature of that arrangement I do not know anything about.

Q. That is the precise nature of the agreement between the Standard and the other trunk lines?—A. Yes, sir; we had no knowledge of it at all.

Q. How did you get your information as to the existence of some understanding or arrangement between the Standard and the other companies?—A. In conversations with the officers of the Standard Oil Company and in conversation with officers of the other trunk lines.

Q. Was it not fully and fairly understood between these various trunk lines, including your own company, that, by some arrangement made with the Standard Oil Company, the contest for the oil traffic was regulated and had become a matter of agreement?—A. By some arrangement with the Standard Oil Company? No, sir.

Q. Was it not understood and expressly recognized between these trunk lines, through their officers, that the oil traffic was, in point of fact, to be apportioned between them upon some recognized plan?—A. No, sir; there was no agreement as to—there was an understanding that the percentages which we received were to be satisfactory to the New York lines and the Baltimore and Ohio Railroad; we, on our hand, not objecting to the percentage they would receive; but there was no agreement between us that this business should be divided by the Standard Company. The Standard Oil Company's agreement with us stands, so far as we know, by itself. Whether they have any agreement with the New York and Erie, or the New York Central, we do not know anything about.

By the MASTER:

Q. You speak now of the percentage of freight to be carried?—A. Of the quantity; yes, sir.

By Mr. SHIRAS:

Q. I have understood you to say that you understood that the other trunk lines were satisfied with the percentage that your road was to get of this traffic, and that you were satisfied with the percentages which they respectively were to get?—A. Yes, sir.

Q. How were those percentages fixed?—A. How were they fixed? How were they agreed to?

Q. How were they agreed to?—A. We had various discussions with them during the whole continuance of this contest as to what percentage our road should have.

Q. Now, as I understand you, about the time this agreement with the Standard was effected, it took the shape, not of an agreement, but it took the place of a contract, in which you agreed or acquiesced in the percentage they were to get, and they the percentage you were to get?—A. Yes, sir.

Q. How were those percentages fixed?—A. They were fixed at a meeting in New York at which the subject was discussed, and at which the Erie, the New York Central, and the Baltimore and Ohio agreed to our having this 47 percentage, or whatever the percentage was, and in which we assented to their having the percentage assigned to them. There was no agreement at that time, however, that the Standard Oil Company should make these divisions. On the contrary, afterwards, some time subsequent to that, the Baltimore and Ohio Railroad called upon us to see that they got their share of the oil. We denied having made any arrangements of the kind with them, and had not, we simply assenting to their getting it; we told them they must make their own arrangements for getting it; we did not care what they were.

Q. About what time was that conference?—A. That conference was some time, I think, in September of 1877.

Q. It was at or about the time of the making of this contract with the Standard?—A. It was before that contract was made.

Q. Were you present at the time?—A. Yes, sir.

Q. Who else were present that you remember?—A. I am not able to state; I don't recollect exactly when the conference took place, or who was there, but I know that such a meeting took place. I do not know whether all the trunk lines were represented or not; whether we didn't see one first and the others afterwards; but the gentlemen who would represent the trunk lines would be William H. Vanderbilt on the part of the Central, Mr. Jewett on the part of the Erie, Mr. Garrett on the part of the Baltimore and Ohio, and Mr. Scott and myself on the part of the Pennsylvania Railroad; we had consultations with those three gentlemen; I am not sure whether it was a meeting at which they were all present, or separate meetings; I could refresh my memory on that.

Q. Were not representatives of the Standard combination present at those conferences?—A. Not to my recollection, sir. The Standard Oil Company never had anything to say as to what the division should be between the lines; that was something out of their province entirely; we never allowed them to have any discretion about that, and they never desired to have any.

Q. What was the method taken or agreed upon between you as to assuring to the respective companies their allotments of the traffic?—A. There was no method agreed upon, as I before stated.

Q. How, as a practical railroad man, was it expected that the agreement would operate? How could it be so watched as to insure this division?—A. We made our arrangement with the Standard Oil Company to get our percentage.

Q. But you don't know what methods the others took?—A. No, sir; not of my own knowledge; that was a question in which we have no interest.

Q. The means by which you say you secured your share of the traffic; by that you advert to this agreement with the Standard Oil Company?—A. Yes, sir.

Q. How, under that, would you be assured or know that you were getting your 47 per cent.?—A. Because they contracted to give it to us.

Q. But a contract is one thing and a performance another; how would the Pennsylvania Railroad Company and its officers be warranted in thinking or believing that they were getting their 47 per cent.?—A. Oh, I understand you now. The different roads exchange statements of the amount of oil they carry, and we make up a statement for the month to see whether we get our 47 per cent.; if we do not get it we call the attention of the Standard Oil Company to the fact, and they would increase the shipments over our road the next month.

Q. When did the trunk lines begin that exchange of statements?—A. The 1st of November, I think, 1877, shortly after this agreement went into effect; I think the agreement went into effect about the 1st of November.

Q. In the case of those reports exhibiting any casual inequalities or departures from the agreed proportions to be carried or received by the respective railroad companies, what were the methods of correcting those inequalities?—A. When we found we were short our percentage, which was the only thing we had any interest in, we called the attention of the Standard Oil Company to it, and called upon it to make it up.

Q. Was that made up by increased shipments at some successive period?—A. Yes, sir.

Q. Was it ever made up by the payment of moneys?—A. No, sir; you mean by payments of moneys by the Standard Oil Company?

Q. By the Standard Oil Company to the companies.—A. No, sir; never—well, I should correct that—never to my knowledge—never to the Pennsylvania Railroad Company; I do not know whether they ever paid any to the Central or to the Erie; I do not know that they did.

Q. Did this arrangement between the trunk lines cover or include an agreement as

to the rates at which the oil should be carried?—A. Yes, sir; there was an agreement that the rates should be equal on the lines, and the rates are fixed, or have been fixed, from time to time by conferences between the trunk lines.

Q. At that time that you succeeded to the effects of the Empire Line, its transportation facilities in the way you have described; did that company have any contracts with other railroad companies?—A. It had with a great many railroad companies throughout the country.

Q. Did you succeed to those contracts—undertake to carry them out?—A. They were nearly all assigned to the Pennsylvania Railroad Company.

Q. Do you keep up in any formal way the organization of the Empire Line?—A. We do; we divide their business into two branches—one the oil business, which we keep up under the name of the Green Line, and the general merchandise business, which we keep up under the name of the Empire Line. In all of our statements and accounts we treat those two lines as though the original contract of the Empire Line was still in existence. We do that to show whether the purchase was a favorable one to us or otherwise.

Q. Among those contracts you succeeded to in the way you have mentioned was there one between the Empire Line and the Buffalo, New York and Philadelphia road?—A. There was.

Q. Do you carry on the work under that contract?—A. Yes, sir; we have worked under it ever since.

Q. It is still a subsisting contract?—A. Yes, sir.

Q. Can you furnish us with a copy of that?—A. Yes, sir; I can.

Direct examination by Mr. SHIRAS:

Q. We requested that you bring a certain contract with the Empire Transportation Company and one with the Buffalo, New York and Philadelphia Railroad Company. Have you got them?—A. Here is a printed copy of the one with the Empire Transportation Company—and this was the one between the Empire Transportation Company and the Buffalo, New York and Philadelphia Railroad Company, which has assigned to the Pennsylvania Railroad Company upon the transfer of the Green Line property to the Pennsylvania Railroad Company.

Q. This is a copy?—A. Yes, sir. [Witness hands papers to Mr. Shiras.] There is an indorsement on the back, you will observe.

Q. Mr. Cassatt, was the contract that is set forth in this agreement between the Empire Transportation Company and the Buffalo, New York and Philadelphia Railroad Company subsequently modified or changed?—A. Not to my knowledge, sir; it was assigned to the Pennsylvania Railroad Company at the time we bought out the Empire Line in October, 1877, or about that time. Will you allow me to look at it? [Mr. Cassatt reads over the contract.] Yes, sir; this is the contract under which we are operating now; that is, so far as it relates to railroad transportation. That contract refers also to the construction of pipelines by the Empire Transportation Company; we had nothing to do with that; only that part of the contract which refers to the furnishing of cars and transportation was assigned to us. It was understood that we should carry out the provisions of the contract referring to that part of the business.

Q. The part, however, that pertains to the transportation business has not been modified?—A. Not to my knowledge; no, sir.

Q. Recurring, Mr. Cassatt, to these statements produced here, contracts between the Pennsylvania Railroad Company and settlements passing between the Pennsylvania Railroad Company and the other railway companies with respect to this oil traffic, and particularly these statements of the month of May, 1878, for instance, I notice in the first entry in the statement of that month a certain amount of crude oil was transported by the Pennsylvania Railroad Company, and marked on this paper "A. V., north of J. C." What do those words signify on the first left-hand corner?—A. I never saw any of those statements. I could not tell anything more about them than you can, I guess. It is not part of my business to see them, and I may say I never have seen them to examine them.

Q. Do you know enough about the method in which those accounts are kept to tell us the meaning of those entries?—A. No, sir. Well, I could guess at this.

Mr. MACVEAGH. We do not care about that.

The WITNESS. We could tell you, probably. A. V., north of the junction, isn't it?

By Mr. SHIRAS:

Q. What junction is that?—A. It is Allegheny junction, I presume.

Q. Does this signify that the oil carried, which appears in that entry, came from points north on the Allegheny Valley Railroad—north of the junction?—A. North of the junction.

Q. Does the entry there of the amount charged on the crude, which I believe is entered there at 30.899 per 100 pounds, signify the charge made by the Pennsylvania Railroad Company for the carriage?—A. That I can't answer; as I say, I am not

familiar with those statements in the form in which they are made out at all. It is my business to make the rates and arrangements for transportation and notify the controller what they are, and he makes the statements. It would be utterly impossible for me to give time and attention to go over the details of those statements.

Q. You spoke in your testimony heretofore of the fact that an agreement had been reached between the trunk lines as to the rates at which the oil should be transported at or about the time that the Pennsylvania Railroad Company had entered into a contract with the Standard Oil Company already in evidence. I wish to ask you, Mr. Cassatt, how the points that are known as common points were fixed; what were common points?—A. All points in the oil regions are common points from which oil is shipped. We do not use the term common any longer; that is a term used some years ago; there were common points made when there were rates made from what were called local points; that term is not used any more in our arrangements.

Q. When did you depart from that phraseology?—A. When we made uniform rates from all points in the regions; that was, I think, about 1875.

Q. Then, if I understand you, it is a characteristic of this agreement between these railroad companies that all oil transported from any point in the oil-producing territory to the sea-board is regarded as starting from a common point?—A. I do not exactly understand that term common point. It is understood that the rate shall be equal and uniform from all points in the region to the same points on the sea-board, with this exception, that the rates on oil from the Bradford district are lower than from the lower district.

Q. Then there is a distinction between oil transported from the Bradford district and that from other districts of the oil country?—A. There is a difference in the rate; that is, the rate from the Bradford district on crude oil is lower than from the other districts, the distance being nearer somewhat, and it is also made lower because the oil is of an inferior quality and won't bear as high a rate of transportation. That is one of the reasons.

Q. Is that distinction observed, so far as you know, by the other carrying companies as well as your own?—A. Yes, sir; that is part of the understanding between the companies.

Q. What is that rate, Mr. Cassatt, at which that oil is carried and which is agreed upon?—A. What is the difference in rate?

Q. No; first, what is the rate from the oil country exclusive of the Bradford district?—A. On crude oil to New York?

Q. Yes, sir.—A. One dollar and forty cents per barrel is the tariff rate.

Q. What is it from the Bradford district?—A. Twenty-five cents less.

Q. This rate given in this account of May, 1878, being 30.889 per 100 pounds, what would that come to at a barrel?—A. We count a barrel of crude oil at 300 pounds.

Q. So that this would be three times that?—A. Yes, sir.

Q. That would be 92 cents and 6 mills?—A. Yes, sir.

Q. This account between the Pennsylvania Railroad and the Philadelphia and Reading, already in evidence, shows, Mr. Cassatt, that 92 cents and 6 mills per barrel were charged. What became of the balance between that rate and your tariff rate?—A. As I said before, I don't understand this account at all, not as made out; and allow me to suggest that Mr. Justice would be the proper man to answer those questions; he could tell a great deal better than I could.

Q. We have no objections to your asking Mr. Justice; he sits near you. It don't matter much which answers.

(Mr. Cassatt consults Mr. Justice.)

A. Under our contract with the Reading Railroad Company, while we count the barrel of oil at 300 pounds in our settlement, and while the 45 gallons of oil do actually weigh about 300 pounds, by the contract which the Empire Line had with the Reading road, which was afterwards assigned to us, a barrel is counted at 360 pounds, and if you will divide 360 into 115 you will find that it comes to about 30.889. As Mr. Justice called my attention to now, and which I recollect, under that contract with the Reading Railroad, as I said before, we settled with them on the basis of 360 pounds to the barrel up till last November, when they asked for a modification of the contract on the ground that that bore heavily on them, and we agreed to modify it and charge for the actual weight.

Q. In respect to that oil that this account shows was transported from the junction and received as from different points on the Allegheny Valley Railroad north of that point, where does the Allegheny Valley Railroad Company get its compensation for its carriage of this same oil?—A. We make settlements with them similar, I suppose, in form with the one we made with the Reading Railroad.

Q. That settlement is not included in the charges here?—A. Well, I think not. It does not show the proportion due the Allegheny Valley Railroad.

Q. Why?—A. Well, this is a settlement showing the Reading Railroad Company what is due to it, and, of course, it would be unnecessary to state what was due the other companies.

Q. What does the Allegheny Valley Railroad Company get from your company for this transportation?—A. It gets, first, a terminal of 5 cents a barrel, which is taken out for the Allegheny Valley Railroad; it is a commanding charge; it is not terminal exactly; 5 cents a barrel is taken out, and then the remainder of the rate is prorated on the average distance which we have agreed upon between us to be a fair average distance, and they get that portion, whatever it may be, of the rate.

Q. Is that the average distance between the points where the oil is shipped and the point to which it is carried?—A. No, sir; the average haul out of the total or average distance from the point of loading to the junction.

Q. What rate is it that you allow them?—A. He takes the actual net rate, after paying all rebates and drawbacks on the oil; then we deduct 5 cents, which we set aside for them; then we prorate the remainder of the rate, taking the distance to the sea-board from the point of shipment, and we allow them their proportion based upon this average distance which is assigned to them.

Q. Then this charge, in point of fact, includes the charge of the Pennsylvania Railroad Company and the Allegheny Valley Railroad Company together?—A. This rate of 30.689 is the through rate to the sea-board, and that is divided up among the different roads that transport oil, and divided in each case upon a different basis. You see in the case of the Reading Railroad we count a barrel at 360 pounds, or did then, and then allowed them their actual distance, took out certain terminals, etc. It was a separate understanding with each road.

Q. You notice in the accounts furnished here for the month of May that this same first lot, which we take by way of specification of lot shipped from points north of the junction, and taken at the junction by the Pennsylvania Railroad, a special allowance made of 5 cents upon 6,332½ barrels, which is about half of the first shipment.—A. That is the amount paid out for lighterage in New York. Under our contract with the Standard Oil Company (and we do in fact for all shippers) we deliver this crude oil to any point in the harbor of New York or alongside of vessels, and this is what we pay out to have this work done.

Q. Do the other railroad companies do the same thing?—A. They do the same thing. You will observe in the contract with the Standard Oil Company (and, as I said before, we pursue the same practice with other shippers) we agreed, so long as we had no wharves on deep water, to deliver to any point in the harbor or alongside vessels.

Q. This same oil that was shipped in May, and of which I have spoken, I notice that in the month of June the statement furnished here exhibits, upon an amount of 12,557 barrels, a rebate or reduction allowed of 22½ cents; what is that?—A. That is paid to the American Transfer Company.

Q. Where did they handle that oil?—A. We have an arrangement with the American Transfer Company by which we pay them 22½ cents on all crude oil received and transported by us. We pay that as a commission to them to aid in securing us our share of the trade.

Q. Is the American Transfer Company a corporation, or is it a private association?—A. I believe it to be a corporation. It has a corporation name and the officers of a corporation.

Q. When did it come into existence, or when did you begin to deal with it in this way?—A. I think in February, 1878, we made an arrangement with them by which we paid them 22½ cents per barrel on all crude oil received by us for transportation. We did that in consequence of the other roads having done the same thing. In order to protect our interests and secure our share of the business we thought it best to do the same.

Q. Is it a Pennsylvania corporation?—A. I do not know, sir.

Q. Who are the officers of it?—A. Mr. Daniel O'Day is the general manager.

Q. Do you know any of the other officers?—A. Mr. Justice informs me George W. Girty is cashier. I do not know him personally; I do not think I ever saw him—but he is cashier.

Q. Can you name any of the other officers or leading officials connected with it?—A. I can not, sir.

Q. Can you name any of the stockholders?—A. I can not; no, sir.

Q. This 22½ cents that you say you agreed to pay them, to what officer was it paid?—A. I believe the checks are made to Girty, cashier—Mr. Justice informs me.

Q. Was your contract with the American Transfer Company in writing?—A. We have no contract with them. There is a letter addressed to me, I believe by Mr. O'Day, asking to have this allowance made them, and setting forth the reasons why they thought they should have it, which I can produce if necessary.

Q. We would like to have a copy.—A. I will send it to you, and I think I replied to him in writing, saying we would make it until further notice. It is not in the nature of a fixed contract; it is an arrangement.

Q. Will the nature of the arrangement appear from this letter and your reply?—A. I think it will, fully.

Q. What is the business of the American Transfer Company, as you understand it?—A. It owns pipe lines in various parts of the region, as I understand it.

Q. Do you know any parts of the oil country in which they have pipe lines?—A. I think in all the parts. It has pipe lines in the Bradford district; it has a pipe line running to Kane, on the Philadelphia and Erie Railroad; I understand it owns and operates a pipe line at Pittsburgh, and the one which formerly belonged to the Conduit; I do not know whether that company is still in existence or not; I think the Standard operates it; I do not know this of my own knowledge; I am simply stating what I understand to be the case.

Q. You have stated, Mr. Cassatt, that you deemed it politic or prudent to make this arrangement, the other railroads having made similar arrangements. How did you become informed of that fact that the other railroads had made such arrangements?—A. *I was shown in February, 1878, I think, a statement of the monthly settlement made by the New York Central and Erie roads, in which it appeared that they paid an allowance or commission larger than the one that we paid to the American Transfer Company.*

Q. Who exhibited to you those statements; do you remember?—A. Mr. O'Day, I think.

Q. You say he showed you such statements, if I understand you?—A. He showed me the monthly settlements made.

Q. Did he state to you how long those contracts had been running with the other companies?—A. He stated to me that they had been receiving that allowance since the previous fall.

Q. Was Mr. O'Day the same Mr. O'Day who was present at the interview when the contract of October 17, 1877, was agreed upon?—A. I find, upon refreshing my memory a little upon that, that I can't say that Mr. O'Day was present at that meeting. I have read over the testimony which I had given here, and in which Mr. Acheson asked me the names of the gentlemen who were there. I think I named one or two who were not there. I think I made a mistake.

Q. You think that was true in the case of Mr. O'Day?—A. I don't think Mr. O'Day was present, and I don't think Captain Vandergrift was present on that occasion. He was probably on a subsequent occasion, but not then. As I stated at the time, I could not recollect all the men who were there.

Q. Was there anybody there at that time who purported to represent this American Transfer Company?—A. No, sir; the American Transfer Company was not represented at that time, and I did not know of its existence at that time; I don't think I did.

Q. Is the Pennsylvania Railroad Company still operating under the arrangements of that contract with the Standard Oil Company, as of that date?—A. Under that letter.

Q. Of October?—A. Yes, sir.

Q. Do you pay this rebate of 22½ cents upon all oil carried by your road?—A. Upon all crude oil carried by our road.

Q. Irrespective of the points from which it is shipped in the oil country?—A. Yes, sir; irrespective of that.

Q. To what point is this money remitted and paid to Mr. Girty? Where are his headquarters?—A. I do not know, sir. Mr. Justice informs me they are in New York.

Q. At the time you made this arrangement with the Standard Oil Company, of which you have heretofore spoken, was it a feature of that arrangement that the American Transfer Company was to receive a rebate or allowance of 22½ cents for oil carried?—A. No, sir; that question was not brought before us until February, 1878.

Q. I understand you, Mr. Cassatt, that 22½ cents paid to the American Transfer Company is not restricted to oil that passed through their lines?—A. No, sir; it is paid on all oil received and transported by us, as I have before stated.

Q. What, by this subsisting arrangement between the companies, is the rate on refined oil from the refineries to the sea-board?—A. It is \$1.90 per barrel to New York, and 15 cents less to Philadelphia—\$1.75 to Philadelphia and Baltimore.

Q. Please look at this May statement; and I observe here that 14,420 barrels of a given weight of refined oil is entered as having been carried from the Allegheny Valley Railroad, south of the junction, to Communipaw; that refined oil would come—would it not, sir—from refineries along the Allegheny Valley Railroad, between the junction and Pittsburgh?—A. Yes, sir; mainly in and about Pittsburgh.

Q. Now, I notice that that refined oil, that particular lot which I now refer to by way of sample, is carried at a rate of 47.882 per 100 pounds. How much would that make a barrel?—A. That weight per 100 pounds is got at by dividing the rate per barrel by the assumed weight of a barrel.

Q. Which was how many pounds?—A. It is 340 pounds, which would make \$1.62 and 8 mills. As we make the rate per barrel it makes very little difference whether we assume the barrel to be 340 or 380 pounds, because it works both ways.

Q. The difference between the exhibit which would show \$1.62 and 8 mills was paid to the Pennsylvania Railroad Company for the carriage of this particular lot of oil, and

the figures which you have given as to the total rate of \$1.90 is paid to the Allegheny Valley Railroad Company?—A. I believe so. We prorate from the junction, then, on the other roads each.

Q. As you explained before about the crude?—A. Yes, sir.

Q. In this statement already referred to, in the account between the Pennsylvania Railroad Company and the Philadelphia and Reading Company of the month of May, 1878, on this particular lot of 14,421 barrels which was carried to Communipaw from the Allegheny Valley Railroad, south of the junction, we notice that there is an allowance or deduction made here of 1.3 per cent; what is that?—A. That is decreasing it to the crude equivalent.

Q. I notice that by some mode of calculation the barrels are converted into some corresponding amount of crude oil, or supposed to be, for the purposes of carriage; how is that done?—A. This rate of \$1.90 on refined oil is made from the mouth of the pipe. We agree for \$1.90 to transport a sufficient quantity of crude oil to the refinery in Pittsburgh to make a barrel of refined, and to transport that barrel of refined thence to New York. Now, it takes $1\frac{1}{2}$ barrels of crude (or we assume that that is the quantity which it takes) to make a barrel of refined oil, and the refinery having paid 35 cents to the Allegheny Valley Railroad Company for each barrel of crude carried—

Q. That is, carried from the place of shipment to the refinery?—A. Yes, sir; and it requiring $1\frac{1}{2}$ of crude to make a barrel of refined, we multiply 35 cents by $1\frac{1}{2}$, and we pay that back to the shipper, who pays us \$1.90 from the refinery to New York.

Q. That 35 cents is the rebate that you pay the shipper after the crude which has been converted into refined has been shipped east on your road?—A. It is refunded to him to cover what he paid to get the crude to the refinery, and that is done to carry out our agreement with him, which is that \$1.90 shall cover that transportation.

Q. And it is allowed and paid him upon his shipment of refined East?—A. Upon his shipment of refined East; yes, sir.

Q. And which is how much on a barrel of refined?—A. Which is \$1.90.

Q. Then how much does the rebate of 35 cents on the barrel of crude make on the barrel of refined?—A. It amounts to 45 $\frac{1}{2}$ cents. That is simply a method resorted to to carry out our arrangement, by which \$1.90 covered the transportation of the crude to the refinery.

Q. Does the arrangement whereby that rebate is allowed apply to all the other railroad companies too; do they make the same allowances?—A. Yes, sir; they make their through rate to the sea-board on refined oil cover the cost of transportation to the refinery, and I presume that they have the same plan which we have, viz, we allow that by their rate on the crude and then refund it to them after they ship their refined.

Q. Is the rebate or allowance the same, so far as you know?—A. I presume that it is. I do not know how; that is, they pay back whatever it costs to get to the refineries. It may not be the same, because the rate from the mouth of the wells to the refineries, in Cleveland, for example, may be more or less than 35 cents a barrel; whatever it is, they pay back.

Q. Now, we will refer to this account of May, 1878, and this same shipment of 14,421 barrels. We observe a special allowance with respect to it of 44 $\frac{1}{2}$ cents. What is that further allowance?—A. It is an additional rebate paid to the receiver of the oil.

Q. To the receiver of the oil?—A. Or shipper of the oil; paid to the shipper; the net rate to New York at that time, by agreement with the other lines, was made \$1 per barrel, and this 44 $\frac{1}{2}$ cents was the additional rebate paid after paying 45 $\frac{1}{2}$ cents crude, equivalent to bring the rate down from \$1.90 to \$1.

Q. When was that arrangement made by which it was brought down from \$1.90 to \$1?—A. What is the date of that settlement?

Q. This is, May, 1878, this allowance was made.—A. I can't recollect exactly when it was made; it was made, whenever it was made, to take effect May 1; made some time probably during the early part of May.

Q. You think it was made to take effect as of May 1, 1878?—A. Yes, sir.

Q. We observe a further allowance of 6 cents paid for lighthouse; that you have already explained.—A. That is not an allowance.

Q. It is so called in the paper; special allowance per lighterage.—A. It is the amount paid out for doing that work; the shipper does not get that.

Q. With respect to getting the oil to the ships?—A. To the different ships; yes, sir.

Q. We notice here, Mr. Cassatt, in the report of the account between the Pennsylvania Railroad Company and the Philadelphia and Reading Railroad Company, as of the month of July, that the further allowance is made, as of the month of May, of 20 cents a barrel on this same May shipment of 14,000 barrels and upwards. What allowance was that? The May account shows no other shipment from south of the junction, except of 14,421 barrels. There appears to be a few barrels more, but evi-

dently it is the same shipment.—A. I can't explain that now, sir; I don't understand it.

Q. The July voucher will show that, won't it?—A. This is the May account, as I understand it.

Q. But it is in the July report, and goes back to the May shipment, and will appear in the July account.—A. You are figuring on the July?

Q. No, sir; that is the July statement you have before you.—A. Mr. Justice explains to me now that in July, at Saratoga, by an agreement among the trunk lines, the rate was reduced to New York to 80 cents per barrel net, clear of all rebates. We learned at that time the fact, which the New York Central and Erie roads admitted, that they had made this 80-cent rate from May, and under our arrangement with the Standard Oil Company we were to make the same rates that the other line did. We therefore rebated to them back the 20 cents; refunded it to them.

Q. Was that shipment of 14,000 and odd barrels there a Standard Oil Company shipment?—A. I presume it was; yes, sir.

Q. Why did those companies put down the rates at that time to 80 cents?—A. I do not know what moved them to do it, unless the trade required that it should be done. That is to say, the trade would not bear a higher rate. After we learned that this had been done we made an arrangement or an agreement with them that hereafter no rate should be made except on consultation with the other lines interested—no reduction should be made.

Q. Was that feature incorporated in your arrangement at this Saratoga conference?—A. I think that was the time we had an understanding with the other roads that they would not make any concessions to any of their shippers without consultation between the four trunk lines.

Q. In order to save time I will put the question in this way: Wherever, in these accounts, there is a similar entry of 20 cents allowed on back shipments that have been already reported in these accounts between Philadelphia and Reading Railroad and Pennsylvania Railroad Company, it is explicable in the same way?—A. I believe it would be. I could not state that, because there might be some other circumstances affecting it. I think I could state that it would be, to the best of my knowledge. I have not gone over the papers.

Q. Would that correction tend to equalize, in view of what the other companies have done? Did that go back to the 1st of May?—A. No, sir.

Q. This allowance of 20 cents was paid to the shipper?—A. Yes, sir.

Q. And in the case of these shipments of which we have inquired, that was a Standard shipment from their refineries near Pittsburgh?—A. Well, I presume that it was, from the fact of disallowance having been made.

Q. Why would you infer it from the fact of this allowance having been made that it was a Standard shipment?—A. Because that particular allowance was made to the Standard Oil Company only. When I state the Standard Oil Company you will understand that I mean the Standard Oil Company or some of the organizations controlled by it—some one of the parties who guaranteed us the percentage of traffic in that agreement.

Q. And in the allowances by the Pennsylvania Railroad Company you pay them to the Standard Company, and they adjust it among their different interests, do they not, sir?—A. I think not in all cases.

By Mr. MACVEAGH:

Q. Do you know really?—A. Well, I have a general knowledge of how it is done; I believe they have a variety of their organizations under their general organizations, suborganizations.

Q. Does the Pennsylvania Railroad Company transact with them or with the Standard Oil Company?—A. We pay the rebates and make the allowances to the consignee of the oil, whoever that may be. For instance, at Philadelphia to Warden, Frew & Co.; in New York there are several parties. Here, nearly all the oil is consigned to J. A. Bostwick & Co. Generally, I can state that our business is transacted with the party to whom the oil is consigned, whoever it may be—that is, to the best of my knowledge; there may be exceptions to that. Mr. Justice corrects me; he says that on all shipments to New York, consigned to any one of the various branches of the Standard Oil Company, we settle our transactions with the Standard Oil Company direct; on shipments to Philadelphia we settle with Warden, Frew & Co.

Q. I observe, sir, that in the account between the Philadelphia and Reading and the Pennsylvania Railroad Company of the month of July, 1878, that there was carried over the Allegheny Valley Railroad, north of the junction to Communipaw, the amount of 61,358½ barrels of crude oil, and that on a portion of that, as appears in the account rendered, there was an allowance of 37½ cents, and on another portion, of 22½ cents; what were those?—A. The allowance of 22½ cents was made to the American Transfer Company, as before stated; the 37½ cents was made up, first, of an allowance of 10 per cent. to the Standard Oil Company on all shipments consigned

to it—on all its own shipments—and then an additional allowance of 15 cents per barrel, which, some time in July, was agreed to with the other lines at a meeting at Saratoga. The allowance we actually made them was this: We paid 22½ cents on all oil to the American Transfer Company, and then on all which the Standard Oil Company shipped itself we allowed them 10 per cent. and 15 cents additional—10 per cent. on the rate. Mr. Justice informs me that by some error that additional 15 cents was paid to the American Transfer Company through part of the month of July, but when the error was discovered it was adjusted between the Standard Oil Company and the American Transfer Company, and they transferred the amount over.

Q. We observe that some is charged at one rate and some at another?—A. That was an error in the fore part of the month, but the 15 cents on that particular lot was not charged together. It is merely a grouping of two items, showing 37½ cents instead of one of 22½ cents, and the other of 15 cents.

Q. You paid 22½ cents on all oil and 15 cents on part more?—A. Yes, sir; you won't find the 15 cents on that oil elsewhere.

Q. Was this arrangement that was made in July, 1878, to allow the Standard a further reduction of 25 cents a barrel, entered into by all the companies?—A. It was agreed to by all the companies. The agreement with the other companies was not that we should allow it to the Standard only, but that we should allow the additional 15 cents a barrel on shipments until further agreement was entered into. In point of fact, we did allow it to the Standard Oil Company and one other shipper.

Q. Who was that?—A. Malcolm Lloyd, of Philadelphia. I don't know whether we allowed that exact amount, but we made a corresponding concession in rates, he being the only shipper, other than the Standard Oil Company, who was not engaged in carrying oil in opposition to us to Buffalo and thence by canal. That was the cause of this further reduction in July.

By Mr. MACVEAGH:

Q. What was that?—A. The fact that an opposition route had been opened to New York by rail to Buffalo, and thence by canal to New York, enabled shipments to be made cheaper than by our line, and forced us to reduce rates; to make that additional concession in July apply to all shipments except these which were made by that other route in opposition to us. The one shipper who was not was Malcolm Lloyd.

By Mr. SHIRAS:

Q. If I understand you, the other companies agreed that you should make that allowance?—A. We all agreed among ourselves that we would make that additional allowance. It was not specified on whose particular shipment we would make it; we might make it on all shipments, or we might make it on part of our shipments, but we could not go below that. That was the agreement.

Q. In this same lot of oil we notice a still further allowance of 14 cents on 13,481 barrels as of the month of July. What is that allowance?—A. That is the 10 per cent. I mentioned a few moments ago; 10 per cent. on the rate of \$1.40.

Q. That would be on shipments of the Standard?—A. Yes, sir.

Q. And that is in addition to the 37½ cents?—A. No, sir. By an error that 15 cents is included in this case; is added to the 22½ cents paid the American Transfer Company; that was afterwards corrected. Of that 37½ cents 15 should have been added to the 14.

Q. By the settlement between the Pennsylvania Railroad Company and the Reading Railroad Company as of the month of August, 1878, we observe here that there has been a shipment carried to Communipaw from the Pittsburgh, Titusville and Buffalo?—A. Pittsburgh, Titusville, and Buffalo.

Q. A carriage of 31,137 barrels, and an allowance made to begin with of 32½ cents. What allowance is that?—A. That is refined oil.

Q. Yes, sir. What was it carried for per barrel?—A. You mean the net rate or manifest rate?

Q. I mean the tariff rate.—A. One dollar and ninety cents.

Q. What was the actual rate?—A. If shipped to the Standard Oil Company at that time it would be 80 cents a barrel.

Q. It is billed at \$1.51. Look at the rebates or allowances for that lot, Mr. Cassatt. The first one was 32½ cents. What was that?—A. That is the crude equivalent. That is the cost of getting the crude to the refinery at Oil City, where this oil was refined; the rate being 25 cents a barrel, and 1.3 times 25 would be 32½.

Q. How much is that on a barrel of refined?—A. Thirty-two and a half cents.

Q. You have spoken of this 6 cents lighterage; then there is one of 64½ cents?—A. That should bring it down to 80 cents a barrel, which was the net rate.

Q. Then a final one of 13 cents. What was that?—A. The two together were necessary to bring it down to an 80-cent rate. The total deductions from \$1.90 bring the rate down to 80 cents.

Q. Now, if you will look at the November account, Mr. Cassatt, you will find ship-

ments there of refined oil 56,388 barrels. They begin again with an allowance of 32½.—A. It is the same.

Q. And then 6 cents lighterage?—A. Yes, sir.

Q. And then the 10 cents for terminal charges?—A. That is paid to the National Storage Company.

Q. Then the 64½ and the 13 together?—A. Yes, sir; they are to reduce it to the 80-cent rate.

Q. Yes, sir; the 10 cents are not?—A. The 64½ cents goes to the Standard Oil Company, and the 13 cents, they having paid \$1.90; that brings it down to 80 cents. Then there is a further allowance of 10 cents to the Pittsburgh, Titusville and Buffalo. At this time, before the month of November, we made made the arrangement with the Pittsburgh, Titusville and Buffalo road by which we paid them a specific rate per barrel for carrying the oil to Irvington, where it connects with the Philadelphia and Reading Railroad Company. That amount was deducted before prorating with the other road—with the Reading Railroad—as shown in this receipt.

Q. What rate, then, per barrel was actually received or retained by the Pennsylvania Railroad Company on this shipment?—A. Eighty cents per barrel, that is what the shipper paid; we had to, of course, divide that rate with our connecting companies. We had out of that also to pay any terminal charges in New York.

Q. That 80 cents was, then, prorated between you and the other shipping railroad companies co-operating in the transportation of the oil?—A. Yes, sir; 26 comes out of the 80 before there is any prorate; there is a specific charge of 10 cents to the Pittsburgh, Titusville and Buffalo; 6 cents lighterage, and 10 cents terminal New York; we prorate them only from Irvington, instead of prorating from the point of shipment.

Q. There was another paper we requested to have produced; a statement of shipments in certain months.—A. You ask for statements of shipments from May 1, 1877, to October 17, 1877; I have it here. [Witness hands paper to Mr. Shiras.]

Q. Included in the 80 cents was a charge that the Pennsylvania Railroad Company had for the use of car service?—A. Certainly.

Q. And that was how much?—A. How do you mean?

Q. What rate was that?—A. Of course, over our own road was nothing; the other companies paid us 30 cents for car service and commission for doing business.

Q. And then in that case, where you were transacting business with the other roads or dealing with them, that car service was to be deducted from this net amount given before, 54, before you prorate with them?—A. That amount comes out, or rather it is not settled in that way exactly. It is prorated and then taken out afterwards, and then we deduct in our settlement 30 cents of what is due to them.

Q. That would then actually leave, would it not, on these shipments, a net sum of 35 cents per barrel for apportionment?—A. We don't make the settlement in that way; we prorate and it comes out afterwards.

Q. It would amount to 35 cents and 20-100?—A. I didn't figure, but believe it would.

Q. What rate per ton per mile would that be?—A. I have not figured it up; you can readily do it if you know the distance; I don't know the exact distance.

Q. At the time in July, 1878, Mr. Cassatt, when this reduction was made on refined oil, was there any corresponding or similar reduction made in respect to crude?—A. There was; yes, sir. It was crude that I stated; I think I stated the reduction on crude some time ago. I stated that we paid the American Transfer Company 22½ cents per barrel on everything, and we paid the Standard Oil Company on its own shipments, and 15 cents per barrel additional.

Q. You were speaking of crude?—A. That applied to crude.

Q. Then what were the rates actually left with respect to crude and with respect to refined?—A. On shipments of the Standard Oil Company do you mean?

Q. Yes, sir.—A. Eighty-eight and a half cents per barrel.

Q. On what?—A. On crude oil.

Q. And what on the refined?—A. I have just stated that the refined we made at 80 cents clear of all drawbacks and commissions.

Q. How was that reduction made from \$1.40 to 88½ cents?—A. It was made by an allowance of 22½ cents to the American Transfer Company, and by an allowance of 10 per cent. to the Standard Oil Company, according to that letter; and by an additional allowance of 15 cents, making 51½ cents reduction, which leaves a net rate of 88½ cents.

Q. Was that allowance on crude made to any other shipper than the Standard Oil Company?—A. Not an allowance of that amount, exactly. We did make an allowance to one other shipper, as I before stated.

Q. That is to Mr. Lloyd, of Philadelphia?—A. Yes, sir; he being the only other shipper of crude over our road that was not running oil over this opposition route at reduced rates.

Q. Mr. Cassatt, do you know Lombard & Bush, who are they?—A. Yes, sir; I do. They are a firm of refiners in New York.

Q. They are what are spoken of here in the testimony as outside refiners; that is, not connected with the Standard?—A. They are not connected with the Standard Oil Company, I believe.

Q. Who represented them in their shipping matters—Mr. H. C. Ohlen?—A. He did, to a certain extent; they represented themselves very often.

Q. When you bought out the Empire Line in the way you have already mentioned, were not these outside New York refiners holders of contracts with the Empire?—A. They were.

Q. Did not these contracts that they held with the Empire stipulate for equal rates with any other shippers?—A. They did.

Q. I think you stated that their contracts expired May 1, 1878?—A. One or two of them April 1; the remainder on the 1st of May.

Q. Did, or did not, the Pennsylvania Railroad Company allow them and the Standard equal rebates or allowances up until the expiration of the contracts?—A. They allowed them both equal rebates, 10 per cent. on their shipments of refined and crude.

Q. After the 1st of May, did you, or did you not, allow the Standard Company and the Atlantic Refining Company, and Warden, Frew & Co., and the American Transfer Company, and the other several parties that are known as the Standard Oil Company, or combination, a rebate for the business of the months of December, January, February, March, and April, which was not given to the New York parties?—A. We did not allow them any rebate excepting the 10 per cent. on their shipments. As I stated before, we allowed the American Transfer Company, a company owning pipe lines in the region, a commission of 22½ cents a barrel, taking effect February 1. I mention that now because you mentioned in your question the American Transfer Company.

Q. Yes; I confused it as if itself were a shipper. These other rebates and allowances which you have been explaining, and to which your attention has been called in these particular accounts, you speak subject, of course, to your explanations with respect to them when you say that you allowed only the 10 per cent?—A. We made them no allowances excepting the 10 per cent. during the months you named; up to the 1st of May we charged the Standard Oil Company exactly what we charged the other parties, in accordance with the contracts the Empire Company had with them, and which we agreed to carry out.

Q. Up to the 1st of May, 1878?—A. Until the contracts expired.

Q. Mr. Cassatt, was not and is not this American Transfer Company identical with the Standard people; is it not an instrument of theirs?—A. I have no knowledge on that subject just now.

Q. Isn't this allowance of 22½ cents to the American Transfer Company in effect a disregard of the agreement that these other shippers were to have equal rates under these contracts with the Empire?—A. I don't think that it is, sir.

Q. In this account that has been furnished us by Mr. Justice of the crude oil shipments by the Green Line during the months of February and March, 1878, to New York, Philadelphia, and Baltimore, I notice an entry of an allowance of an aggregate total of \$68,753.50, as paid to the American Transfer Company through Daniel O'Day, general manager; is that the payment of this 22½ cents, of which you have already spoken?—A. Yes, sir; that is; so Mr. Justice tells me.

Q. That would not be 22½ cents; that would be only 20 cents.—A. The first allowance was only 20 cents; it was afterwards increased to 22½ cents.

Q. Then, during the months of February and March, which this gives, it was only 20 cents?—A. I do not know when it was increased to 22½ cents, but some time in the spring or summer of that year.

Q. This you have stated, Mr. Cassatt, that you agreed to and did pay this money upon being informed by Mr. O'Day that similar or larger sums had been paid by the other railroad companies to the American Transfer Company?—A. After seeing the papers under which the settlements between those companies and the American Transfer Company were made, I had them here in Philadelphia. They sent them here to me for inspection before I agreed to make that allowance.

Q. Mr. O'Day exhibited them to you?—A. He sent them to me. I had them in my possession for several days and sent them back.

Q. Did Mr. O'Day make a demand for the equivalent off your road?—A. He asked that we should make the same allowance by letters which you have asked me to produce, and which I will produce.

Q. In the account with the Pennsylvania Railroad Company with the Lehigh Valley Railroad Company for the month of August, 1878, we notice a shipment from Olean to Commisipaw of crude oil of 30,644,400 pounds.—A. That would make 85 cents and a fraction per barrel.

Q. Where is that rate from, Mr. Cassatt? Is that the Emporium rate or the Olean rate?—A. There is no Emporium rate. It is prorated from the mouth of the pipe.

Q. Am I to understand that the rate you give there is the rate from Emporium or

from Olean?—A. From Emporium; but it would appear that some reduction was made before this rate per 100 pounds was made.

Q. Now, you will find a drawback paid of \$34,000, \$41,000 less the \$7,000, the Buffalo, New York, and Philadelphia proportion. Could you tell who that drawback was paid to?—A. Forty-nine cents went to the American Transfer and the Standard Oil Company under the arrangements which I have already explained.

Q. Could you give us the net rate per ton per mile upon that haul?—A. It amounts to about a cent and a tenth per ton per mile on the net rate, and for November it is about the same, being 49 cents per barrel rebate on \$1.15 rate from Olean.

Q. We notice, Mr. Cassatt, that by the abstract of the exports between the Pennsylvania Railroad Company and the Lehigh Company for the month of November, 1878, there was shipped from Olean to the Communipaw 128,211½ barrels of crude oil at the rate of \$1.15 per barrel, and which earns according to this statement, the sum of \$147,443.55, and that the deductions are placed at the sum \$99,167.05. How much after those deductions were made was left to be prorated upon that lot of oil between the carrying companies per barrel?—A. About 38 cents a barrel.

Q. Mr. Cassatt, have you found the letters which you were to furnish this morning?—A. Yes, sir. [Witness hands to Mr. Shiras copy of letter dated February 15, 1878, being marked Exhibit 45, and a copy of letter dated May 15, 1878, being Exhibit No. 46.]

Q. Mr. Cassatt, in your testimony yesterday you stated, if I understood you correctly, that at the conference between the railroad managers that took place in July, 1878, at Saratoga, when the rates were cut down to 60 cents per barrel, that these rates were allowed to the Standard and its shippers, and not to the outside shippers; am I right?—A. You are referring now to the rate on refined oil?

Q. Yes, sir.—A. I am not aware that there were any outside shippers of refined oil, so called; I do not know of any refiners in the region or in the West that were shipping refined oil by our road.

Q. Excepting those who belonged to the Standard?—A. Yes, sir. The reduction on crude-oil rate, however, was made to apply only to the Standard Oil Company and to Malcolm Lloyd, of Philadelphia.

Q. Then I did apprehend you correctly. What was that reduction of the crude-oil rate to the Standard?—A. It was an additional rebate of 15 cents per barrel.

Q. The open rate at that time to all shippers was how much?—A. One dollar and fifteen cents and \$1.40, respectively.

Q. And the rate to the Standard was then how much?—A. It was 14 cents off the \$1.40 rate, and 15 more, making 29, and 11½ and 15, making 25½ for the \$1.15 rate.

Q. And then the refined rate was 80 cents?—A. Eighty cents net to the Standard.

Q. And to all others \$1.90?—A. One dollar and ninety cents less 44½.

Q. One dollar and forty four and a-half cents?—A. But there were no other outside shippers, to my knowledge, that shipped refined oil.

Q. Was there any answer directly by you to that letter, Exhibit 45?—A. I have asked my clerk, who brought this up this morning, to go down and see if there was, and, if so, to send a copy of it. If there was an answer, it was simply agreeing to his terms until further notice. It may have been given verbally on some subsequent occasion.

Q. This letter to Mr. Dowling of the date of May 15, 1878, being Exhibit 46, was written as a mode of giving directions in respect to the proposition contained in this letter of Mr. O'Day's?—A. Yes, sir; it was simply instructing him that we had agreed to this.

Q. These are correct copies?—A. Yes, sir. (Exhibits 45 and 46 offered in evidence.)

Q. I understand you to say, Mr. Cassatt, that the nature of this American Transfer Company, as to whether it is a Pennsylvania or New York corporation you don't know?—A. I do not know, sir.

Q. Do you remember when first your company came into contact with it?—A. I think the first knowledge I had of there being such a company was when Mr. O'Day, in February, asked this commission to be paid to them, and explained to me what pipe lines they owned and controlled, and what the other roads had been doing for them.

Q. It was in February, 1878?—A. I think so. I do not think I had any knowledge of this before. Up to that time I supposed the pipe lines which were controlled and owned by the American Transfer Company were controlled by the United lines.

Q. When did these shipments by way of canal that were sent to Buffalo, and of which you spoke of yesterday, begin?—A. I think some time in July.

Q. What year?—A. July, 1878, or possibly earlier than that. I can't say positively.

Q. Could you, by reflection, give us a closer date than that, Mr. Cassatt?—A. I could only fix the date by the fact that this meeting at Saratoga was held in consequence of the canal line having been opened at reduced rates.

Q. Mr. Cassatt, on shipments made by the Imperial Company of Oil City, or from

the Standard Oil Company at Pittsburgh, over the Pennsylvania Railroad and Allegheny Valley Railroad, and consigned to Warden, Frew & Co., Philadelphia, what rebates were paid?—A. At what time, sir?

Q. During the year 1878.—A. What part of 1878; because rates varied after July?

Q. Say from July to November, inclusive.—A. From July to November there was a net rate made to Philadelphia of 66½ cents—13½ cents less than the net rate to New York.

Q. Well, how in the earlier part of 1878 was it?—A. It was \$1, less 13½ net; rebates were paid sufficient to bring the net rate down to 86½ cents.

Q. That is on refined oil?—A. Yes, sir.

Q. And how was it with respect to crude?—A. Let me explain. When I say the net rate, I mean the net rate to the refiner, irrespective of the charge of getting the crude to the refinery, which was paid by the refiner—that is, the 35 cents rebate was paid by themselves. The crude oil was the same. The difference in the rate was 13½ cents to Philadelphia below the rate to New York, which you have.

Q. That is \$1.26½, then?—A. I wish to correct myself. [Witness refers to memorandum.] The tariff rate on crude to Philadelphia is 15 cents below the rate to New York. The net rate was, however, on all occasions, 13½ cents less, which arises in this way: We deduct the 10 per cent. from the gross rate.

Q. Those were the rebates that were allowed, then?—A. Yes, sir.

Q. There was no such rebate allowed others?—A. There were rebates allowed to Malcolm Lloyd, who was the only other receiver of petroleum in Philadelphia.

Q. What were the rebates allowed him?—A. They were such as to bring his net rate down to within a few cents of the Standard rate.

Q. With respect to these Standard rebates that were allowed on their shipments to Philadelphia of refined and crude, to whom were they paid?—A. To Warden, Frew & Co., of Philadelphia.

Q. To what member of that firm?

By Mr. MACVEAGH:

Q. Does he know?—A. I am not able to say, but I presume in the firm name; I do not know; that is, they were paid as they might direct themselves.

Cross-examination by Mr. MACVEAGH:

Q. Mr. Cassatt, I want to direct your attention to a personal matter, which was asked you, to a certain extent. You were asked whether you had any knowledge that Mr. Vanderbilt, representing the New York Central, or Mr. Jewett, representing the Erie, had any interest whatever in the Standard Oil Company or any of its affiliated companies. I wish to extend that question to the other trunk lines. I wish you would state whether or not, to your knowledge, Mr. Garrett, or anybody representing the Baltimore and Ohio, had any such interest.—A. They have not, to my knowledge.

Q. Mr. Garrett, or Mr. King, representing the transportation department, or any other officer of that company?—A. Not to my knowledge.

Q. Then I wish you would state whether Mr. Scott or yourself, or any other officer of the Pennsylvania Railroad Company, had any such interest.—A. Never to my knowledge. I speak of absolute knowledge as to myself, but as to Mr. Scott to the best of my knowledge and belief.

Q. And as to any other official of the Pennsylvania Railroad Company you speak to the best of your knowledge and belief?—A. Yes, sir.

Q. Has anything ever occurred to lead you to suppose that any such interest existed?—A. Never.

Q. I desire that question to be considered by you as searching and explicit as I can possibly make it.—A. I so understand it.

Q. Now, as to the history of the oil transportation. I wish you would state whether or not this oil about which we have been inquiring is, or is not, wholly produced in the State of Pennsylvania for which you have been competing?—A. It is not.

Q. What proportion of it is?—A. A part of it is produced in the State of New York. I can't state the exact proportion, but a considerable proportion.

Q. What district is that known as?—A. That is the Bradford district.

Q. How long has the Bradford district been producing oil in considerable quantities?—A. I think for about four years. I can't be positive as to that. I have forgotten when. I think the date of this contract, if I am allowed to refer to the date of the contract between the Empire Line and the Buffalo, New York and Philadelphia road, will show that it was about that time that they first commenced to produce oil.

Q. When was your attention first directed, as representing the Pennsylvania Railroad Company in its transportation business, to the Standard Oil Company as a customer of the road?—A. My first connection with the oil business of the Pennsylvania Railroad Company was in the spring, I think, of 1873; at that time the Standard Oil Company was not shipping over the Pennsylvania Railroad, but was shipping over the Erie and New York Central roads.

Q. Shipping from where?—A. Shipping mainly from Cleveland.

Q. In small or considerable quantities?—A. In very large quantities. They were the largest refiners at that time in the country. Subsequently to that they consolidated with Warden, Frew & Co., of Philadelphia; bought them out and paid them in stock. Warden, Frew & Co. had been before that our largest customers. All other of our largest customers had failed. I think I am correct in stating that they had failed at or about that time.

Q. They had ceased the refining business, at any rate, had they?—A. They had, I believe.

Q. Failed to ship in considerable quantities by your line?—A. I meant failed financially; and in 1875, I think it was, we made our first contract with the Standard Oil Company, for the reason that we found they were getting very strong, and then had the backing of the other roads, and, if we wanted to retain our full share of the business and get fair rates on it, it would be necessary to make arrangements to protect ourselves.

Q. Up to that time had any arrangement, so far as you know, been made with the Standard Oil Company by the Pennsylvania Railroad Company?—A. None had been made; no, sir.

Q. It has been already stated that the Empire Transportation Company was the organization which conducted the oil transportation which passed over the lines of the Pennsylvania Railroad Company.—A. All the oil business except the refined from Pittsburgh, which we did on what is called our slow-line regular business.

Q. On the main line?—A. Yes, sir.

Q. All the rest of your oil transportation was made for your lines by the organization known as the Empire Transportation Company, was it?—A. Yes, sir; it was secured by them.

Q. In 1875 did the Pennsylvania Railroad Company secure its traffic from the Standard Oil Company directly or through the Empire Transportation Company?—A. The contract was made directly with the Pennsylvania Railroad Company. The oil was carried by the Empire Transportation Company.

Q. Was that contract with the knowledge of the Empire Transportation Company?—A. With the knowledge of the Empire Transportation Company.

By Mr. SHIRAS:

Q. That is, you are speaking of the contract between the Pennsylvania Railroad Company and the Standard?—A. Yes, sir, of July, 1875; I think that is the correct date; July or August, 1875.

By Mr. MACVEAGH:

Q. I wish you would detail in your own way the history of that arrangement; how long it lasted and what brought it to an end?—A. That arrangement lasted until March, 1877. It was brought to an end by the Standard Oil Company giving us notice that they desired to terminate it, and did terminate it.

Q. In March, 1877?—A. Yes, sir; I may want to correct that date of July, 1875; I have not looked at that contract for some time, and it may have been later; I think it was not, though; I think it was in July, 1875. I will refresh my memory by looking at the contract. I merely state now from recollection.

Q. During the continuance of the arrangement of 1875, calling it by that date, was the Standard shipping over other lines competitors of yours?—A. It was.

Q. Over what other lines?—A. Over the New York Central and Erie Railways, and during part of the time, during the latter part of the continuance of that contract, with the Baltimore and Ohio road.

Q. That is, it was dividing its transportation between these different roads?—A. Yes, sir; it was only some time after that contract had been entered into that the Baltimore and Ohio became a competitor for the oil business.

Q. About what time would you state that the Baltimore and Ohio became an active competitor to the oil business, to the best of your recollection?—A. I think it was during 1876.

Q. Then from the year 1876, taking that as the date, were or were not the four trunk lines active competitors for the transportation of oil?—A. They were.

Q. Until now?—A. From what time?

Q. From 1876 were they all so situated as to share in the transportation of the oil business?—A. They were.

Q. And have they all shared in it?—A. They have.

Q. From that date?—A. Yes, sir.

Q. State whether or not there was anything in the situation of the refining works, or in its conduct of its business in the oil regions, which gave the Pennsylvania Railroad Company any decided advantage in competing for that traffic over the other trunk lines, or whether the Standard could, if it chose, ship over the other trunk lines to the exclusion of the Pennsylvania.—A. It could do so, and, in fact, did so. From the spring of 1877 until October 17 they did not ship a barrel over our road.

Q. Can you state any reason why the Standard should be willing to pay you a higher price for shipping its oil than it could secure its shipments for over the lines of your rivals or your competitors?—A. I know of no reason why they should do so.

Q. Have you, to the best of your knowledge and belief, ever shipped a barrel of oil for the Standard at less price than could secure a shipment of the same over the lines of your rivals?—A. To the best of my knowledge and belief, we have never carried a barrel of the Standard's oil at a lower rate than the rates of the other roads. I know of certain occasions when we got a little better rate.

By Mr. SHIRAS:

Q. This is, than the rates of the other roads to the Standard?—A. Yes, sir.

By Mr. MACVEAGH:

Q. What, in your judgment, was the occasion of the notice from the Standard to your company in the spring of 1877 that it would cease to ship oil over your lines?—A. They stated their reason, not, perhaps, in the formal notice, but in many interviews between us, to be that they objected to the Empire Transportation Company, which was the organization having charge of the oil traffic of the Pennsylvania Railroad and its connecting lines, being in the oil refining business as a competitor of theirs. They claimed that in many ways this gave the Empire Transportation Company the advantage, if they chose to take the benefit of it, and believed that they did take advantage of them in the distribution of cars and in many ways.

Q. At that time were any of your competitors for the business of the Standard Oil Company engaged or likely to engage in the refining business as a competitor of the Standard?—A. No, sir; they were not. On the contrary, they protested strongly against our having any direct or indirect interest in, or control over, the refining business. They claimed that the fact that the Empire Transportation Company controlled a refining business gave us indirectly a control of the refining interest, and that that gave us an advantage over them that they would not submit to.

Q. In other words, was or was not the complaint that you were annexing to the business of transportation, by the indirect mode of using the Empire Transportation Company as a refiner, the business of a manufacturer also?—A. They claimed that.

Q. And were thus at the same time assuming an unfair relation to the other transporting companies and to the Standard as a refining company?—A. That was their statement.

Q. Was or was not the effort to compel you to adopt that view the real cause of the struggle in the oil traffic in the summer of 1877?—A. It was.

Q. Did or did not the Pennsylvania Railroad Company endeavor for a number of months to maintain the right of the Empire Transportation Company to engage in the business of refining?—A. It did, from the spring of 1877 until October the 17th. It carried on a contest with the other roads, the object on the part of the other roads being to compel us to take the Empire Transportation Company out of the refining business.

Q. And did or did not the Standard join heartily in the effort?—A. It did.

Q. So far as your knowledge extends, was there any division of counsels whatever on that subject between the other three trunk lines and the Standard Company or were they all heartily in accord in the effort to compel you to cease from being a manufacturer by means of the Empire Transportation Company?—A. They were, I believe, entirely in accord on that subject.

Q. You stated before substantially that, and you also stated, as I recollect your testimony, that you supposed the United Pipe Lines was a party to that arrangement. Have you any knowledge on that subject, or is there any correction of your testimony in that regard that you desire to make?—A. I really have no knowledge of the fact that the United Pipe Lines united with the other roads and the Standard Oil Company to make this warfare upon us.

Q. Do you know of any action upon their part discriminating against you or the Empire Transportation Company, of your own knowledge?—A. I do not. I stated that because I supposed them to be in accord with the other roads, for the reason that nearly all their oil was carried to the other roads. I do not know, though, that they ever discriminated in rates on oil carried to our lines or connecting lines, or that they ever charged more for oil which was delivered into the cars of the Pennsylvania Railroad.

Q. Did they ever refuse facilities for transportation over your lines?—A. I do not know that they did; I believe they did not. Nearly all their oil was carried to the northern lines, and that was what I based my statement on before.

Q. I wish you would give, to the best of your judgment (and I have not called your attention to this, and therefore it must be a mere estimate, subject to correction), the gross value of the tonnage to the Pennsylvania Railroad Company it was receiving from the Standard Oil Company before the break in the spring of 1877, or, if you prefer, state whether it is very considerable or inconsiderable?—A. It was very considerable indeed. It must have amounted to considerably more than half our entire oil traffic, probably 65 per cent. of it.

Q. State whether it was a considerable or inconsiderable element in the capacity of your company to earn any adequate return on its investment for the oil business.—A. The oil business was a very important business to us.

Q. Was the business of the Standard a considerable or inconsiderable element in enabling you to earn any decent return upon your investment for that business?—A. The business of the Standard Oil Company was of very great importance to us.

Q. In the exhibit presented by you yesterday, Mr. Cassatt, of the net revenue derived by the company from the oil business from May 1, 1877, to October 17, 1877, I notice there is no division by months. I wish you would state whether or not there was any difference in the months of that period, or the periods themselves between the beginning of it and the close of it, as to the profitableness of that business to the Pennsylvania Railroad Company.—A. There was a very material difference, sir. In the outset, after the first month or two, the Standard Oil Company and the other lines, for some reason best known to themselves, did not reduce the rates materially. We received good rates for the first two or three months, but after that each month was lower than the other, to the best of my recollection, and it was getting to be down to a point where it was no longer possible to carry. It was very evident if the contest continued it would get down to as low as the competitive rates on any other traffic, and probably below paying rates. That was what alarmed us. It was not so much the rates we were getting; it was what we saw in the future, although the rates that we were getting at the latter part of the contest were very low indeed.

Q. Have there been instances of the result of such continued strife within your knowledge as engaged in the business of transportation?—A. Yes, sir; I could give you an instance to-day, for example.

Q. What?—A. To-day we are carrying grain from Chicago to New York for 15 cents, out of which we are paying $3\frac{1}{4}$ lighterage in New York, making $11\frac{1}{4}$ cents for transportation, including car service. If you take off the 30 per cent., as these gentlemen did yesterday for car service, it leaves something less than 2 mills per ton per mile that we are getting.

Q. What is the cause of that rate, in your judgment?—A. Simply caused by competition with the other roads.

Q. Is that a paying rate?—A. I don't think it is a very paying rate. I don't think any railroad company could pay expenses on that rate.

Q. What is the condition to-day, as you understand it, of the coal-carrying business between the competing roads?—A. I observe by this morning's paper that the Reading Railroad Company has reduced its rates to 35 per cent. of the actual selling price on board; that is, from the mines, from Port Richmond, and that includes delivery by the Reading Railroad Company of the coal on board ship. The selling price on "T" coal, I believe, is \$2.30, so that 35 per cent. of that, or 80, would be the rate on "T" coal; or, if the selling price would be \$2.25, they got 35 per cent. of \$2.25 for transportation of the coal from the mines, including the lateral charges to Port Richmond and including the cost of delivering that coal on board vessels, which is the result of competition.

Q. What would that afford, in a rough estimate, for transportation over the 90 miles of the Reading Railroad?—A. It is considerably more than 90 miles, I suppose. Their average haul must be 110 or 120, I should say.

Q. What would be the net amount in figures that they would be receiving for that?—A. Assuming the rate to be \$2.25 on board they would receive 35 per cent. of that; they would receive 78 cents per gross ton, 2,240 pounds.

Q. But is that for the entire coal without anything being paid?—A. That is for the transportation of the coal from the mines to Richmond, and includes the cost of putting the coal from the car on board vessels. I may be wrong as to the price being \$2.25, but I believe it is the general impression that the price will be \$2.25 this month.

Q. Now, Mr. Cassatt, while this contest was going on between the Pennsylvania Railroad Company, on behalf of the Empire Transportation Company, and the three other trunk lines on behalf of the Standard Oil Company, state who continued to ship over your lines?—A. The refiners known and spoken of here as the outside refiners, the refiners other than the Standard Oil Company.

Q. On what terms were those shipments made? That is, were they on terms which shared with you the loss of that struggle?—A. I don't think that made any loss to the refiners. The business was done in this way: The oil was bought in the oil regions by the Empire Transportation Company—that is, the crude oil—and was sold in New York to the refiners at whatever price they could get for it; that is, the Empire Transportation Company. I presume the refiners did not pay them more for their oil than they could afford to pay and make a margin; in fact, whatever was left as the difference in the selling price and the buying price was our freight. I believe the refineries, as a whole, made money. In fact, several of them have told me that they did during that struggle make money; how much I do not know, but they certainly didn't make any loss. We stood what loss there was.

Q. And during that time the Empire Transportation Company was buying and

selling oil and settling with you for the differences as the freight?—A. The Empire Transportation Company was buying oil in the region, selling it in New York and settling with us for the difference. I should state that the Empire Transportation Company, through its control of the Union Pipe Line, had been for some time buying oil. All the pipe lines in the region had been in the habit of buying oil in order to get transportation. They bought the oil at the wells and sold it at the mouth of the pipe.

Q. Had the tendency of this buying been to increase or diminish, during the six months it lasted, your rates for carrying oil?—A. At the outset we got very nearly the rates we had been getting before the abrogation of the contract. Each month, I think I am correct in stating, the rates were less than the previous one, and it was drifting very rapidly into a condition of affairs where we probably would have got no rates at all as far as we could judge from experience in other competitive business.

Q. As an executive officer of the Pennsylvania Railroad Company, do you believe that company could have continued that contest without serious injury to its business?—A. I don't think we could. I think in a very short time we would have been carrying oil as low as oil is being carried to competitive points, and as low possibly as we are carrying grain to-day. The peculiarity of all these contests is that they never get any better; they get worse as you go along. Each road is trying to undercut the other constantly, and that results in a settling-down process which cuts the rate down to a very low figure very soon.

Q. You have spoken of three trunk lines which compete with you for this traffic. Have you any knowledge of the rates allowed to the Standard during the continuance of the struggle by those lines?—A. I have not.

Q. Have you any judgment from the character of the business and the market price of oil at the time?—A. I know that they carried it at exceedingly low rates. I am inclined to think they carried at lower rates than we carried.

Q. During that time?—A. Yes, sir. From information that I obtained subsequently.

Q. How, in your judgment, would the rates they carried for compare with the rates that have been given in evidence here as charged the Standard by you?—A. I think the net rates were much lower than any we carried for the Standard subsequently. I think they were much lower.

Q. I wish to understand you correctly. Do you mean to say, in your judgment, from your knowledge of the business, you believe that the railroads that were then competing with you, the New York Central and its affiliated lines, the Erie and its affiliated lines, the Baltimore and Ohio and its affiliated lines, the Lehigh Valley, and the Reading Railroad Companies carried oil for the Standard during that fight at less rates than you have been carrying it for the Standard since the fight?—A. From information which I believe to be reliable, and which I have received since the termination of the contest, I believe they were carrying, during the whole of the time, at rates lower than our own—lower than ours were to our shippers at that time.

Q. And how would those rates compare, in your judgment, with the rates you have since allowed?—A. They were much lower than the rates we have since allowed to the Standard.

Q. As already given in evidence here?—A. Yes, sir.

Q. Was not this contest also injurious to the other trunk lines, and were they not also growing weary of it?—A. It was not so injurious to them as it was to us, for this reason: Before this contest we got 52 per cent.—I have the privilege of correcting this, as it may be 1 per cent. more or less—of the entire trade to the sea-board. The Baltimore and Ohio got 9 per cent. and the remainder was divided equally between the New York Central and Erie; the oil business was, therefore, of nothing like the importance to either one of those roads as it was to us. They could afford to lose their entire net revenue from the oil business without affecting their general net results anything like to as serious an extent as it affected ours. That is always the advantage that a road has of competing for business when it gets into a contest like this when it has a very small trade. It affects them very little, and it affects the road they attack very seriously. For instance, a road might have 10 per cent. of a business of any particular trade and the other road 90; the 10 per cent. which the one road had would be of very little importance to it, and it might lose all its revenue without being seriously affected. The road carrying 90 per cent. might be ruined by the competition. That is the advantage that the other three roads had over us.

Q. That is the point I wish to draw out by the questions as to the importance or non-importance of the oil traffic to your lines, but it answers equally well to have it brought out in this connection. Are each of these trunk lines the lines of other States?—A. They are all corporations of other States, although I believe they also have affiliated lines in this State.

Q. Was there any method of transportation except by rail during any part of the season competing with you?—A. During the summer of 1878?

Q. Previous to that. During the summer of 1877 was there any other route for the carrying of oil?—A. Yes, sir; there was. The oil was carried, and has been for sev-

eral years, in greater or less quantities, down the Ohio River, and thence over the Chesapeake and Ohio Railroad to Richmond. Oil has been shipped, too, in considerable quantities by lake, in some cases direct from Cleveland to European ports by lake through the Welland Canal. The route is always open during the summer. They can always ship oil from Cleveland to Europe, either direct or to Montreal and thence, in larger vessels than can go through the canal, to any port in Europe.

Q. Requiring only transshipment from one vessel to another?—A. Yes, sir.

Q. What about the New York Canal?—A. Oil was transported during the summer of 1878 by that method.

Q. And not before that, to your knowledge?—A. Yes; in previous years it has been carried from Cleveland to Buffalo by water and thence by canal to New York.

Q. In 1877?—A. Prior to 1877. I don't think it was done in 1877. It was not done in 1877, because the Standard Oil Company controlled all the refineries in Cleveland at that time, and under their contract with the different trunk lines, I believe, they were compelled to ship all their oil by rail.

Q. That is what I wanted to get at.—A. That is a route that was always open for transportation.

Q. Then, in addition to the three trunk lines you have mentioned as your competitors, there is a line down the Ohio River and via the Chesapeake and Ohio Railroad to Richmond and thence to Europe?—A. Yes, sir.

Q. There is also a line by the Welland Canal to Montreal and thence to Europe, and there is also a line by lake to Buffalo, and the Erie Canal to New York?—A. Yes, sir.

Q. You have already stated, as I understand it, that you believe during the continuance of this fight the Standard Oil Company, controlling all the refineries of Cleveland, shipped all its refined oil, by virtue of its contract with the other trunk lines by rail?—A. Yes, sir.

Q. Now, this settlement of this fight was made in October, 1877?—A. October 17, 1877.

Q. Did the water communication remain open much longer after that, if you know, for that season?—A. The lakes usually close, I think, about the middle of November.

Q. Do you know whether, as a matter of fact, after the settlement there was any oil shipped except by rail?—A. There was not; no, sir.

Q. During that season?—A. There was not.

Q. By the contract you put in evidence, which speaks for itself, however, there was to be a deduction of 10 per cent. on the oil shipped by the Standard?—A. Yes, sir; that is, not less than 10 per cent.

Q. Now, how long did that arrangement of a deduction of 10 per cent. only continue?—A. Up to the 1st of May, 1878.

Q. What new factors entered into the matter at that time which made any change desirable, if any; what new elements came into the question?—A. So far as we were concerned we followed the lead of the New York Central and Erie railroads in making concessions after the 1st of May. They were convinced by the Standard Oil Company that deductions were necessary in order to keep the trade moving. They made the deductions, we followed.

Q. Do you know on what grounds they were induced to do that? What the representations were, of your own knowledge?—A. Not of my own knowledge, I do not know.

Q. Your agreement was with the Standard that you would give them rates as low as long as they sent their oil over your lines as they received from your competitors?—A. Yes, sir; the understanding was that our rates should be as low as those of our competitors.

Q. I will repeat the question and put it in another form. Was there any obligation whatever on the Standard to pay you higher rates at any time than it could transport its oil for over the other roads?—A. I would like to refer to that letter. The understanding was, of course, that we would make rates in connection with the other trunk lines as low as the other trunk lines made them. The letter specifically provides that the rates shall be fixed by the trunk lines, and that those rates shall be "so fixed as to place them on a parity as to cost of transportation to shippers by competing lines."

Q. When did you first know that a reduction was to be made by the other trunk lines in favor of the Standard? At the 1st of May?—A. No; it was subsequent to the 1st of May. I can't fix the exact date.

Q. Some time during that month probably?—A. Yes, sir; some time during that month, I think. It was first brought to our attention by the Standard Oil Company stating that the New York Central and Erie had assented to this reduction for reasons that they had urged upon them at the time, and we made the same reduction. As I stated before, it has since been understood among the trunk lines that those reductions and changes in rates, whether advances or reductions, shall be made only on consultation in which the four trunk lines shall be represented. At that time that was not strictly adhered to.

Q. You learned that the two had made it, and you assented?—A. Yes, sir; we assented.

Q. And do you know whether the Baltimore and Ohio assented?—A. They assented subsequently also.

Q. Now, as to your conference at Saratoga, of which you have spoken; what was its character, and what were the reasons which operated on the representatives of the trunk lines at that time in making the reduction?—A. The cause of the reduction made at Saratoga was that the route for oil by rail to Buffalo and thence by canal had been opened up at rates which we were convinced were much lower than we were then charging the Standard Oil Company, and we made the reduction to meet that rate. That reduction was made on a very careful consideration of the subject by the presidents of the three Northern trunk lines, and after they had been convinced that the reduction was necessary to meet the reduced rates by the canal.

Q. Was that reduction also assented to by the other trunk lines?—A. It was assented to by the Baltimore and Ohio Railroad. It was not represented at the meeting for the reason that Mr. King, who was to represent that company, did not get there in time. The meeting took place in the morning, and he arrived in the afternoon after the meeting had adjourned, but he assented to the reduction in the rates.

Q. Who were the active parties, to the best of your knowledge and belief, in opening the additional competing lines by Buffalo and the canal?—A. I could not name them all. I believe that nearly all of the called outside refiners in New York, thirty, were in the movement, and the Equitable Pipe Line was also.

Q. You can state whether, in your judgment, it was the movement of the outside refiners.—A. Yes, sir; in New York.

Q. Was there any outside refiner in Pennsylvania engaged in it?—A. No, sir; not to my knowledge.

Q. What outside refiner is there that is a customer of your lines in Pennsylvania?—A. Malcolm Lloyd is the only one, I believe, that I now recollect. There are one or more small refineries at or near Pittsburgh, but I don't recall them now. I don't think they shipped to the sea-board at all.

Q. How long did that reduction continue which was made at Saratoga in consequence of the opening up of this competing line?—A. Till the 8th of December of that year, which was about the time of the closing of the canal.

Q. What change took place then?—A. Then we went back to the rates that were in existence prior to July of that year, and we are now charging those rates.

Q. You went back because the competing line, via Buffalo and the canal which the outside refiners had opened and thereby reduced the rates, was closed by the season?—A. Was closed for the time being.

Q. You say those are the rates you are operating under now?—A. Yes, sir.

Q. You have given in evidence a copy of a letter from Mr. O'Day as representing the American Transfer Company; I wish you would state whether or not you then regarded that company as having power to control shipments of oil either over your lines or away from them?—A. The American Transfer Company undoubtedly had it in its power to control shipments, so as to divert them from the line of the Pennsylvania Railroad.

Q. What were your reasons for making the arrangement which Mr. O'Day demanded?—A. We made that because we thought it to the interest of our company to make as favorable an arrangement with the American Transfer Company as we could; at least as favorable as had been made by the other lines.

Q. You made them because you thought it to the interest of your company to make as favorable arrangements with the American Transfer Company as had been made by the other competing lines?—A. Yes, sir.

Q. Why did you think it to the interest of your company to make it as favorable as your competitors were making it?—A. The American Transfer Company had it in its power to divert traffic from our line if we did not.

Q. Do you know of any reason why they should continue to divert oil in their control to your lines at higher prices than they were paying the other competing lines for the same business?—A. I do not.

Q. Mr. Cassatt, I find I omitted to ask you one question in its order. While the Standard Oil Company was extending its business and enlarging its power and control of the oil traffic was there, to your knowledge, any effort made on the part of the Pennsylvania Railroad Company to induce the other trunk lines to combine as against the Standard?—A. There was no effort made to combine as against the Standard, but there were repeated efforts made to induce the other trunk lines to join in some arrangement by which the oil traffic might be secured at paying rates to the four trunk lines, and be divided between those lines in proportions to be agreed upon, and by which equal rates should be charged to all shippers. We proposed various methods to accomplish this object; we suggested, among other things, that after we had agreed upon percentages we might have a joint agent in the oil regions, and issue bills of lading which would give us the right to ship oil over any one of the lines, but that

joint agent should, in making the shipments, divide the business between the four trunk lines on percentages that might be agreed upon. We thought that was a feasible scheme, but the other roads differed with us in that respect; they thought that the Standard Oil Company, with its large control of the refining interests, could seek other outlets and might and probably would cause us to reduce our rates for transportation far below what we ought to get for the business.

Q. What I meant in my question would be better expressed in a changed form. Did the officers representing the Pennsylvania Railroad, to your knowledge, endeavor more than once to secure the co-operation of your competitors in some plan which would enable the railroads to control a division of the oil traffic and to prevent the Standard from controlling it?—A. The Standard does not now and never did control the divisions; they never attempted to; but we have made numerous efforts—and I suppose that is what you mean by the question—to induce the other trunk lines to adopt some means of carrying out the divisions agreed among themselves without assistance or aid of the Standard Oil Company, in which we were not successful.

By Mr. SHIRAS:

Q. You have not located those efforts in any point of time. You mean before the making of the contract?—A. Yes, sir; before the making of the contract; during the continuance of this contract.

By Mr. McVEAGH:

Q. Were or were not those efforts made repeatedly during the continuance of the contracts of which you have already spoken?—A. Yes, sir. I ought to state the reasons given by the other lines, and I did partially, for not adopting our suggestions: They believed it would not be feasible; that the Standard Oil Company would be able to break up any arrangement of that kind we might make.

Q. Have you any knowledge of any power possessed by any one of the trunk lines, or all of them together, to compel the Standard to ship its oil, except by what route it might choose to do so?—A. There was no such power; none of the lines had any such power.

Q. From your knowledge of the business of transportation can you suggest any method by which any such result could be reached?—A. I know of no such method except by agreement with them.

By Mr. SHIRAS:

Q. Excepting by agreement with the Standard?—A. Yes, sir; the question was how we could force the Standard to ship its oil by our lines, and I said we could not except by agreement with them.

By Mr. MACVEAGH:

Q. Had the percentage of the transportation which they controlled increased or diminished from the time you speak of, when it was over one-half, up to the time when the contract was made with them in October, 1877?—A. My recollection is that during that contest we got not much more than 30 per cent. of the entire traffic, and as the other lines carried for the Standard Oil Company only, they must have during that time got 70 per cent. of the refining business; that is, that which goes to the sea-board.

Q. During that contest what was the effect of the competition between the Pennsylvania Railroad and the Empire Line, on the one side, and the other trunk lines and the Standard on the other, upon the market at the wells, as compared with its effect upon the market at the sea-board, if you know?—A. I do not, sir.

Q. How was the allotment that was actually made of the percentage by the arrangement that was made in October, 1877, reached? Who made these percentages, and how were they made?—A. By agreement between the four trunk lines. After several interviews on that subject and failures to agree upon percentages, we finally did agree.

Q. Had these efforts to secure the agreement of the other trunk lines in the appointment of a joint agent, and the other efforts you made in the direction you have indicated, all preceded the making of that arrangement with the Standard?—A. They had; yes, sir.

Q. State whether or not, since that arrangement has been made with the Standard, there has been any voluntary reduction of rates to it by the Pennsylvania Railroad Company, or any reduction not required by the reduction of your competitors for this traffic.—A. There has been no reduction made that we didn't think it was necessary to make, and that was not made by the other lines at the same time or before we did.

Q. In connection with these rebates and allowances, I am not sure that the question I put upon one aspect of this case was sufficiently in detail. In this you have already answered, that so far as your knowledge and belief extends, no officer of the Pennsylvania Railroad Company, or of any other companies which it operates, was directly or indirectly interested in the Standard Oil Company. I wish to ask whether you intend that answer to deny any such interest as a share-holder, or in any shape

or manner whatever, and then I wish you would state whether or not, so far as your knowledge extends, any such officer was ever directly or indirectly interested by any contrivance or arrangement, of any character or description, in any of these rebates, in any allowances, in any drawback, in the receiving of any presents from the Standard Oil Company, or from anybody with whom they were connected, or from anybody whom you might suppose represented them in any shape or form?—A. To the best of my knowledge and belief, no.

Q. Now, Mr. Cassatt, I wish you would state what, in your judgment, would be the consequence to the Pennsylvania Railroad Company of refusing to make the same allowances to the Standard Oil Company which your competitors for the oil traffic make to them.—A. It would simply result in the state of affairs that existed in the spring and summer of 1877, and which was gradually getting worse; it would simply result in this, to the best of my belief, that in a very short time we would be carrying oil at ruinously low rates.

Q. What percentage of the oil to be carried do you suppose you could secure at these rates to-day?—A. To-day we could get a very small part of it. If we should be forced into another contest with the Standard Oil Company the result would be, as I said before, we would get low rates and a very small part of the traffic. We would have to encourage the building up of opposition refineries on the lines of our road, and I believe that in the course of time we would get a share of the tonnage, but necessarily at very low rates, unless by agreement we could put them up.

Q. In your judgment would such a policy be advantageous or injurious to the Pennsylvania Railroad Company?—A. It would be very injurious, in my opinion.

Q. Would it not result at once in diverting all the oil traffic controlled by the Standard Oil Company from your lines?—A. It would, undoubtedly.

Q. And would you not be dependent upon your success in building up competing refineries to get any considerable portion of that traffic?—A. We would.

Q. In building up those refineries would you not have to sustain them against the competition of the Standard in the oil market?—A. We would.

Q. Do you think it would be safe for the Pennsylvania Railroad Company to again enter upon that enterprise, to the best of your judgment, as one of its transporting officers?—A. I think it would be a very injurious thing for us to do in the interests of the stockholders and of the company.

Q. Mr. Cassatt, there are two or three corrections possibly to be made in your direct testimony. I don't know whether there are or not, but I want to call them to your attention. In the first place, my recollection is that you stated the Empire Transportation Company was not, to your knowledge, increasing its capacity in 1877. I wish to ask whether, upon reflection, you do or do not know (and I do not know which is the case) that they were actually, by leases and running arrangements, increasing their capacity in the spring of that year in Pittsburgh and elsewhere and enlarging their interests in the refining business? Have you any knowledge on the subject?—A. In the spring of 1877?

Q. Well, in 1877.—A. In the spring of 1877 they were building this refinery here at Philadelphia; they were enlarging the refinery in New York. As to whether they had any arrangements with the refiners in Pittsburgh or were making leases there I do not know. My impression is that they did have some arrangement of that kind, but I can not speak of it of my own knowledge.

Q. Then you stated in your testimony as if the New York Central Railroad Company received all the oil that it received from the United Pipe Lines. Is that accurate, or did it, as a matter of fact, receive from the Octave and Pennsylvania Transportation Company and other lines from Titusville?—A. I believe it did at that time; yes, sir. I think the Pennsylvania Transportation Company has ceased to do business, but at that time it was in operation and carried oil to the New York Central Railroad. I have no knowledge of the Octave line at all. I believe there is such a line; while it carried oil it no doubt carried oil to the New York Central Railroad, because it runs to connect with that road only, I believe.

Q. Do you remember at the time of the negotiations between the Empire Transportation Company and the Standard Oil Company and the Pennsylvania Railroad Company the position which the Standard took as to the advisability of the Pennsylvania Railroad Company purchasing the Union Pipe Line? Do you remember whether they urged and insisted that the Pennsylvania Railroad Company should purchase the Pipe Line rather than that they should do it?—A. Yes, sir; as I said in my direct testimony, I think the Standard Oil Company did not wish to buy the Union Pipe Line; they wanted the Pennsylvania Railroad Company to buy it; it was necessary, it was explained, that it should be bought in order to close out our contract with the Empire Transportation Company. The question then came up who should buy it; we insisted that the Standard Company should buy it, and they urged us to do it.

Q. What was the extent of that line, have you any idea? Several hundred miles?—A. Three or four hundred miles.

Q. You can state whether they made that purchase of their own accord and from their own wish to do it, or whether against their own wish and upon the instance of the Pennsylvania Railroad Company that they should do it as a part of the arrangement.—A. We insisted that they should do it; that we could not.

Q. And it was against their desire as first expressed?—A. They much preferred that we should buy it.

Redirect examination:

Q. Mr. Cassatt, you have stated that this allowance of 22½ cents which you made the American Transfer Company was made because you learned that the same or even greater allowance had been made in favor of that company for some time before by the other trunk lines, and you having stated that the reductions upon the rates had been fixed at the time of making this contract in October, 1877, with the Standard Oil Company. When these reductions were made were they at the same time or subsequent to reductions allowed that company by the other trunk lines; are we to understand that the policy of the Pennsylvania Railroad Company with respect to the allowance to the Transfer Company, and with respect to the allowances to the Standard Oil Company, was dictated and controlled by the other trunk lines?—A. No, sir; I do not know. We have an equal voice with the other trunk lines in fixing these rates, and in the particular instance I speak of the concession was made first by the two Northern trunk lines and we followed; subsequent to that time we had an understanding, which now exists, that no arrangements or rates would be made with the Standard Oil Company for the transportation of oil excepting at a meeting at which the four trunk lines would be represented, in order that their action might be simultaneous and that each line might have a full voice in the matter.

Q. Is that understanding, as it now exists, reduced to writing?—A. No, sir; simply an understanding amongst us that we will not deal separately with the Standard Oil Company. We will meet them always as a body.

Q. State about when that understanding was arrived at.—A. It was made in consequence of these reductions having been made without consultation with us.

Q. Did you regard the fact that these allowances had been made by the other trunk lines without consultation with you for a considerable period as creating an obligation on the part of the Pennsylvania Railroad Company to make these allowances for freight already carried?—A. It was an obligation, not perhaps in the light of an absolute obligation, but we thought it best to make as favorable rates with the Standard Oil Company as the other lines had done.

Q. Was the allowing of those rates or reductions to the Transfer Company and to the Standard Oil Company by these two Northern trunk lines without consulting with your company regarded by your company as a violation of the agreement of October, 1877, between the Standard Oil Company and the other trunk lines?—A. Well, hardly as a violation of the agreement, because the agreement mainly consisted in the division of the tonnage; they did not gain any additional tonnage by that possibly, but we thought it was not a proper way to make those concessions. I should state, however, and I call your attention to the fact, that you speak of our paying these rebates, or this commission rather, to the American Transfer Company on business already carried; the conversation which I had with Mr. O'Day and this letter which I received from him was in the early part of February. This letter that I received from him was dated July 15; he therefore made a request that we should pay this commission in the early part of February. We held the matter in abeyance for some time, and did not agree finally to it until the 15th of May. That was the reason why in this case we paid rebates on business that had been carried two months previously.

Q. Am I to understand you, however, as testifying, Mr. Cassatt, that you regarded the allowance of these rebates, and of this allowance to the American Transfer Company by these Northern routes without consultation with the Pennsylvania Railroad Company as a violation of the understanding between the railroad companies made prior to October 17, 1877?—A. There was no understanding on that subject; I can hardly say, therefore, that I would consider it a violation of the agreement; it was certainly a departure from the general practice in these matters, where we generally consult before making any changes, and when the attention of the other roads was called to this they promptly agreed that hereafter they would not make any changes in the rates for transporting oil except at a meeting at which the four trunk lines would be represented.

Q. That agreement, then, as it now exists, and your own judgment with reference to any changes, grew out of the dissatisfaction of your company with their having made those changes?—A. Without consulting us.

Q. Mr. Cassatt, you have stated that one reason why, in the consultation at Saratoga, in July, 1878, you were driven to putting down the rates was that a new route had been arranged by outside refiners by way of Buffalo and the canal; what was it that drove those outside refiners to the constructing and arranging of that route? Was it not the fact that they could not get the same rates over the trunk lines that

they were offered by them to the Standard Oil Company?—A. I believe that it was; we stated frankly—I did to the outside refiners, and also did Mr. Scott, the president of our company, that unless they would guaranty us the same quantity of oil, guaranteed to ship over our line the same quantity of oil that the Standard Oil Company had guaranteed to ship, we could not make them the same rates; we would make lower net rates to the Standard than they got. I stated to them at the same time, however, that I did not think the concession we would make the Standard would be one that would drive them out of the business; we did not intend them to do so, and in the distribution of cars and the facilities for transportation they would be placed on a strict equality with the Standard Company. They expressed themselves as dissatisfied with that; they said they would never agree to any arrangement by which they did not get the same rates as the Standard, and from that time forward they commenced to arrange in some way to get some other route to the sea-board.

Q. At the same time, did they not, Mr. Cassatt, make the request or demand that they should be permitted to put cars of their own on your road?—A. They did at a subsequent interview with Mr. Scott and myself at the office of the company in Philadelphia. We declined to allow them to put cars of their own on the road, for the reason that we had cars enough to do the business that we had just bought from the Empire Line; we declined to allow them to put cars on, excepting at the legal rates.

Q. By the legal rates you mean chartered rates?—A. I mean we were compelled to carry the cars of certain individuals at certain rates prescribed by law, and we would carry their cars at those rates.

Q. With respect to that portion of the oil traffic which you have described as seeking the sea-board down the Ohio River and by means of the Chesapeake and Ohio Railroad to Richmond, that is a much longer route from the oil country to the sea-board than that presented by the trunk lines, is it not?—A. Yes, sir; it is a long route.

Q. What was it that drove the shippers who sent their oil by that way to use the round-about and long route; was it not their inability to procure the carriage of their oil upon the same terms for which the Standard Company's oil was carried?—A. I don't know what their object was; I suppose their reason for shipping by that route was that they were offered lowered rates; the Chesapeake and Ohio Railroad had no oil business and offered them very low terms to carry the oil.

Q. Lower rates than those they could procure from the trunk lines?—A. Lower rates than we were carrying for.

Q. Do you know what rates they procured by that route?—A. I don't know; we knew at the time; we thought we knew. It is sometimes very difficult to ascertain what rates are.

Q. How far is it from the point where this oil is produced to the port on the Ohio River by which this oil reached the Chesapeake and Ohio Railroad?—A. Huntington, I think, is the point where the oil is transhipped from the barges to the cars; how far below Pittsburgh that is I do not know.

Q. It is away below Wheeling, is it not?—A. Below Wheeling; yes, sir.

Q. And below Parkersburgh likewise; below the foot of the Baltimore and Ohio Railroad?—A. Yes, sir.

Q. About 350 miles below Pittsburgh?—A. I really don't know; I should say that is farther than it really is; I don't know; the river is very crooked and it may be a long distance.

Q. Who are the shippers that send their oil to the market by that route; I mean of what class are they? Are they other than the Standard?—A. Yes, sir.

Q. You have spoken, Mr. Cassatt, of your opinion of the power of the American Transfer Company to control traffic; had they, to your knowledge, any other source of power in that respect than the possession of the limited pipe lines, which you have spoken of as their property?—A. I don't know of any other.

Q. The influence, then, that you advert to as being possessed by them arises out of their ownership of certain pipe lines?—A. Yes, sir; they could have opened those pipe lines to shipments at very low rates by water and to rival roads, and could have diverted a large quantity of oil from our lines if they had chosen to do so.

Q. What route, by way of water, would their pipe lines have taken the oil?—A. By the Ohio River. If they had had very large inducements they could have got a large quantity of oil carried that way, and which would not only have affected us in the quantity of oil—the carriage of which we would have lost—but would probably have forced us to put our rates down to meet the competition of that route on all our other oil.

Q. You have stated, Mr. Cassatt, I think once or twice—I think I put a question to you about its being, as you suppose, a corporation, but you did not know of what State; have you any information that you can give us with respect to the organization of the American Transfer Company, who its principal officers are, or its leading stockholders?—A. I don't know of my own knowledge anything about it, excepting that Mr. O'Day is the manager, and Mr. Girty, I was told yesterday, is the cashier.

Q. Where was Mr. O'Day's headquarters in connection with that business?—A. At Oil City.

Q. Have you any information, Mr. Cassatt, going to show that the owners and controllers of the American Transfer Company are the same persons who own and control the Standard Oil Company?—A. I have no knowledge on that subject, sir, at all. I never saw a list of stockholders.

Q. Do you know, from transacting business or otherwise, as such things are known, that this Mr. Girty is the treasurer of both the Standard Oil Company and the American Transfer Company?—A. I am not aware of the fact, and indeed I did not know of the fact that he was the treasurer of the American Transfer Company until Mr. Justice so informed me yesterday. The only officer of that company that I ever met to my knowledge was Mr. O'Day.

Q. Mr. Cassatt, you have spoken of the policy that has controlled the action of the Pennsylvania Railroad Company with respect to complying with the demands of the Transfer Company and the Standard Oil Company and the effect of a contest with those companies on the part of the carrying companies, and you have likewise, in reply to Mr. MacVeagh, stated some views with respect to the effect upon the oil traffic. If hostilities should be renewed between your company and those companies touching that matter, I ask you whether, if the Pennsylvania producers were to construct refineries on the line of the Pennsylvania Railroad Company, and bind themselves to ship all their product upon the lines of your road, would you give them as low rates as you give the Standard?—A. If they would guaranty us the same quantity, undoubtedly.

Q. Not otherwise?—A. Not otherwise under that contract that we have now with the Standard Oil Company, unless we change our policy and give notice of the abrogation of that contract.

Recross-examination :

Q. Mr. Cassatt, your examination so far has been confined to the relations of the Pennsylvania Railroad Company as a carrier of oil. State whether, to your knowledge, it ever entered into any arrangement of any kind for the control of the oil market.—A. Never, sir.

Q. State whether it ever agreed with the Standard or with any other oil company or railroad company or with anybody else in any way to acquire control of the production or sale of oil in any manner or form.—A. Never had anything to do with that, sir.

Q. State whether or not it did, to the best of your judgment and belief, confine itself to the business of transporting.—A. It did.

Q. And, so far as your knowledge extends, whether the arrangements that were made with the Standard and with other persons, with reference to the transportation of oil, were confined to its relations as a transporter.—A. As a transporter.

Q. Has there been any objection on the part of anybody connected with the Pennsylvania Railroad Company, as you know, to raising rates or to getting better rates from the Standard, if it were possible?—A. Never. We have always endeavored to get the best rates we could.

Q. Is there any objection now upon the part of any officer of that company, to your knowledge, to having open rates—to giving equal rates to everybody—if your competitors were required to do the same?—A. On the contrary, if we could have any arrangement by which we could be assured that rates would be maintained by all our competitors, and not cut by any of them, it would be just what we desire. We are satisfied that with our facilities in this traffic, as well as in any other traffic, at the same rates we can always secure our fair share of the business, and that is what we ask. Nothing would give the management of the Pennsylvania Railroad Company greater pleasure than to have that accomplished by law or otherwise, so it could be enforced.

Q. Equally upon all competitions for this traffic?—A. Yes, sir.

Redirect examination :

Q. You say that there would be no objection on the part of the Pennsylvania Railroad Company to have open rates and equal rates to all, if the rival roads maintained the same and did not cut them. What better method do you have now to maintain the equality of the rates as between you and the rival roads than you would have under the circumstances that you speak of, or under any circumstances?

Mr. MACVEAGH. In other words, how do the Pennsylvania Railroad Company's arrangements tend to maintain the arrangements agreed upon?

Mr. SHIRAS. How do you get rates maintained in equality better now under your arrangements with the Standard?

The WITNESS. Simply this, that all incentive to cut the rates—reduce the rates—is removed by the pool, or by the agreed division of the business between the lines; if a line has agreed to a certain percentage of the business it gains nothing to exceed

that percentage, it gains nothing by not reducing the rates in competition with other roads.

Q. Then, I understand that it is with respect to the agreement to share the traffic in extent that the agreement between the railroad companies is effective?—A. Simply, that is it; yes, sir.

Q. But how do you enforce the agreement that the rates are to be the same; what means have you to enforce that particular portion of the agreement as to the equality of the rates, which you would not have under any circumstances?—A. As I endeavored to explain before, the fact that each road has agreed to take a certain percentage of the business, and be satisfied with that; not wishing any more removes all incentive on their part to cut the rates. If there were no division of the business, then each road would try to get as large a share of the traffic as possible, and resort to the general method of cutting rates to get it.

Q. But my question is this, in another form: What if these railroad companies equally abide now by verbal arrangements to divide this traffic in accordance with a certain plan of division, why would they not equally abide by any other arrangement as to the equality of rates?—A. Because in the one case the contract is one that can be enforced; that is, the division of the business can be enforced.

Q. How can you enforce that?—A. Because it can not be departed from without all the other roads knowing it and breaking up the arrangement; if there were no agreement to divide the business and maintain rates any one of the roads might endeavor to obtain by secret rebates or commissions a larger share than the other roads would think it was entitled to, and it is the making of secret rates that is the real question to meet.

Q. Then, the serious difficulty in regulating traffic which is reached by railroads is not the making a just agreement with respect to rates, but in what you call making secret contracts?—A. The difficulty is not in the making of the agreement, but in the maintaining or enforcing of it.

Q. But the difficulty is one that can be departed from by secret arrangements with respect to traffic?—A. Yes, sir; that is it. If all the roads in the United States were compelled by law to publish their tariff, and if it were made a misdemeanor upon the part of any officer, punishable by law, to make any secret concessions from them, and such a law could be enforced, there would be very little difficulty in maintaining rates.

Q. Mr. Cassatt, why could not an agreement be made between these trunk lines as to a division of the traffic without paying the rebates to the Standard and the American Transfer Company; why could it not be made and enforced between them just as well?—A. It could be if they would agree to it. We, as I said before, during the contest with the Standard Oil Company and the other trunk lines, made repeated efforts to get them to agree to some arrangement by which the oil could be divided in quantity, and by which rates could be maintained; we suggested several plans which were entirely feasible, I think. They objected to going into any arrangement for the reason that they thought the power of the Standard was such that they would seek other outlets than the trunk lines.

By Mr. MACVEAGH:

Q. Was not the practical difficulty, as stated by them, this: That the Standard Oil Company, controlling 70 per cent. of the gross traffic, would be more likely to make a route of its own to the sea-board, utilizing such lines by water and land as were necessary, than to submit to the terms imposed by the railroad companies?—A. That was generally the idea, that the Standard Oil Company would have it in its power, through arrangements for the transportation of its oil, to take this business off the trunk lines in a body; and there was a good deal of force in what they said.

By Mr. SHIRAS:

Q. The practical difficulty to which you advert, about the trouble of this matter of cutting rates by agreement with the railroad companies, is an illustration, is it not, showing your arrangement don't meet that difficulty? If these two northern trunk lines, having allowed this matter to the Transfer, and also to the Standard, without your knowledge, and secretly—don't it illustrate the same difficulty as fully as any other questions of cutting rates?—A. Well, I think not; I don't know that they intended it to be a secret arrangement at the time it was made, and they certainly made no secret about it whenever attention was first called to it by the American Transfer Company, and we consulted them about it; they made no secret in regard to it then. I think the simple mistake there was acting without consulting the other two lines, and, as I stated, that has not occurred since.

Q. That you know of?—A. I believe not.

[Copy of ' Pennsylvania Railroad Company Exhibit No. 38, Philadelphia, March 6, 1879. J. B. Sweitzer, master. "]

PHILADELPHIA, October 17, 1877.

DEAR SIR: In consideration of the covenants by your company to be performed as hereinafter mentioned, we will agree as follows:

(1) It having been agreed by the trunk lines that of all the oil shipped by the trunk lines to the cities of New York, Philadelphia, and Baltimore, 63 per cent. shall be considered as the proportion which would naturally go to the city of New York; and it having been further agreed that of this percentage one-third shall be transported over each of the trunk lines having termini in New York, viz, the New York Central, Erie, and Pennsylvania Railroads, we agree, unless the aforesaid division shall be changed by mutual consent of said trunk lines, to ship such quantities of oil over your lines, from time to time, as will, when added to the quantities shipped by parties other than ourselves, give your line one-third of the shipments to New York by the said trunk lines, or 21 per cent. of the whole amount shipped to the three cities above named by the said trunk lines; it being understood that in stating the number of barrels for the purpose of making this division or for carrying out any of the other stipulations herein contained, the barrel of 45 gallons of crude shall be the unit, and that each barrel of the usual size of refined oil shall be counted as equal to one and three-tenths barrels of crude.

(2) It having been agreed, as we are informed, between your company and the Baltimore and Ohio Railroad Company that of the remaining 37 per cent. of the total shipments aforesaid you should be entitled to transport by lines owned and controlled by your company to Philadelphia and Baltimore 26 per cent., and the Baltimore and Ohio Railroad Company to Baltimore by its lines 11 per cent., we agree, until these proportions are changed by mutual consent, to ship such quantities to Philadelphia and Baltimore by lines owned and controlled by your company as will, when added to shipments of parties other than ourselves, give for transportation by your lines to Philadelphia and Baltimore 26 per cent. of the total shipments by the four trunk lines to the three sea-board cities above named.

(3) We further agree that the quantity of oil which we will ourselves ship over your line shall not in any calendar year be less than 2,000,000 barrels, based upon an average production of not less than 30,000 barrels per day. If we should fail to give you the traffic herein named, we will pay to you a sum equal to the profits which you would have realized upon the quantity in deficit; provided, however, that you will at all times furnish us with transportation, as we may reasonably require it.

(4) We will, of the proportion of oil going to Philadelphia, refine as much as is practicable in Philadelphia, as we understand that you desire to see the refining capacity of Philadelphia fully employed, and, if needful, increased. And in shipping by your lines, whether to Philadelphia, Baltimore, or New York, we will endeavor to deliver the oil to you at points from which you will have short hauls, and to the extent that we can we will make the proportion of crude shipped as large as possible, as we understand its transportation to be more profitable to you than that of refined oil.

(5) We ask, in consideration of the above-named guaranty of business upon which it is understood we shall pay such rates as may be fixed from time to time by the four trunk lines (which rates, it is understood, shall be so fixed by the trunk lines as to place us on a parity as to cost of transportation with shippers by competing lines), that you shall furnish us promptly all the transportation we may reasonably require, and that you shall allow to and pay us weekly such commission on our own shipments and the shipments which we may control, as may be agreed to by your company and the other trunk lines from time to time; this commission, it is understood, has for the present been fixed at 10 per cent. upon the rate, and shall not be fixed at a less percentage, except by a mutual agreement of your company and ours; provided that no other shipper of oil by your line shall pay less than the rate fixed for us before such commission is deducted, and no commission shall be allowed any other shipper unless he shall guaranty and furnish you such quantity of oil for shipment as will, after deduction of commission allowed him, realize to you the same amount of profit you realized from our trade; that is, you will not allow any other shipper of oil any part of such commission, unless after such allowance you realize from the total of his business the same total amount of profit you realize from the total of our business, except so far as your company may be compelled to fill certain contracts for transportation made by the Empire Line with refiners and producers, which contracts terminate on or before May 1, 1878, a statement of which shall accompany your reply to this letter; such contracts to be fulfilled. We agree that all the stipulations herein contained shall be carried out by us for the period of five years from the date hereof, unless sooner changed or terminated by mutual consent, provided that you advise us in writing within ten days that your company accept, and will carry out, its part of the arrangement for the like term. In entering into this agreement we desire to put

ourselves on record as expressing our wish and intention of making our business relations with your company such that not only your main lines, but the connecting lines controlled by you, especially the Allegheny Valley Railroad, shall secure the best possible results from the oil traffic consistent with our existing obligations to other transportation interests. We feel that the location of our refineries, all of which can be reached by your lines, should naturally create a close alliance between your company and ours, and that the best results from this important traffic can only be secured to yourselves and ourselves and, we might add, to the entire petroleum interests of the country, by the establishment of friendly and mutually satisfactory arrangements between us.

Yours, truly,

THOMAS A. SCOTT,
President Pennsylvania Railroad Company.

STANDARD OIL COMPANY,
By WILLIAM ROCKEFELLER,
Vice-President.

OFFICE OF THE PENNSYLVANIA RAILROAD COMPANY,
Philadelphia, October 17, 1877.

MY DEAR SIR: I am in receipt of your letter of this date, reciting the understanding and agreement to exist between the Pennsylvania Railroad Company and your company for a period of five years.

I beg leave to say that the same covers the whole basis of the arrangement, and is satisfactory to this company, the provisions of which will be duly carried out by it.

Very respectfully, yours,

THOMAS A. SCOTT,
President.

WILLIAM ROCKEFELLER, Esq.,
Vice-President Standard Oil Company.

Correct:

JOSEPH LESLEY,
Secretary.

FEBRUARY 14, 1879.

[Copy of exhibit "Pennsylvania Railroad Company, Exhibit No. 45, four pages, Philadelphia, March 21, 1879, J. B. Sweitzer, master."]

OFFICE OF THE AMERICAN TRANSFER COMPANY,
Oil City, Pa., February 15, 1878.

DEAR SIR: Referring to the conversation I had with you in January, I wish to submit the following facts: That our company has at large expense (involving the payment of several hundred thousand dollars) purchased and created certain pipe lines to Pittsburgh, through which we are able not only to protect the Allegheny Valley road in a paying rate of freight for the oil it carries, but also to secure to that company (by agreement with it) its full proportion of the oil traffic going to Pittsburgh.

You are acquainted with the efforts we have put forth in other directions during the last month, in which we have acted in thorough accord with the trunk line interests, and I believe I may say, without egotism, we have to the extent of our ability effectually protected their interests in such action. I here repeat what I once stated to you, and which I asked you to receive and treat as strictly confidential, that we have been for many months receiving from the New York Central and Erie Railroads certain sums of money, in no instance less than 20 cents per barrel on every barrel of crude oil carried by each of those roads.

Co-operating as we are doing with the Standard Oil Company and the trunk lines in every effort to secure for the railroads paying rates of freight on the oil they carry, I am constrained to say to you that, in justice to the interest I represent, we should receive from your company at least 20 cents on each barrel of crude oil you transport.

The fruit of the co-operation referred to has been fully evidenced in the fact that since last fall your company has received 50 to 60 cents per barrel more freight than was obtained by it prior to our co-operation.

In submitting this proposition I feel I should ask you to let this date from the 1st of November, 1877, but I am willing to accept as a compromise (which is to be regarded as strictly a private one between your company and ours) the payment by you of 20 cents per barrel on all crude shipments commencing with February 1, 1878.

I make this proposition with the full expectation that it will be acceptable to your company, but with the understanding on my part that in so doing I am not asking as much of the Pennsylvania road and its connections as I have been and am receiving from the other trunk lines.

You are doubtless aware that during the last two years a large amount of oil has been shipped to Richmond via the Chesapeake and Ohio road, and that since the purchase of the Pittsburgh lines by us not one barrel has been permitted to go in that direction.

During the season of 1877, and so long as the Columbia Conduit Company afforded the Baltimore and Ohio road access to the oil regions, that company, I understood, refused to accept from the other trunk lines (for its proportion of the oil traffic) less than 20 per cent., but after the purchase by us of the Columbia Conduit you succeeded in arranging with the Baltimore and Ohio for about half as much as they previously claimed.

I may add that the Baltimore and Ohio road are wholly dependent upon us for any oil they may carry.

Yours, truly,

DANIEL O'DAY,
General Manager.

A. J. CASSATT, Esq.,
Third Vice-President, Philadelphia.

[Copy of Exhibit 46.]

PHILADELPHIA, May 15, 1878.

DEAR SIR: Your favor of February 15 has been received, and directions have been given to allow you from and after February 1, 1878, the commission therein asked for until further notice.

Yours, truly,

A. J. CASSATT,
Third Vice-President.

DANIEL O'DAY, Esq.,
General Manager American Transfer Company, Oil City, Pa.

[Copy of exhibit.—Pennsylvania Railroad Company. Exhibit No. 47. Philadelphia, March 21, 1879. J. B. Swetszer, master.]

PHILADELPHIA, May 15, 1878.

DEAR SIR: I inclose herewith copy of letter from Mr. Daniel O'Day, general manager of the American Transfer Company, which refers to a conversation I had with him in January last, in reference to allowing the American Transfer Company a commission of 20 cents per barrel on all crude oil transported over this company's lines to New York, Philadelphia, and Baltimore.

I agreed to allow this commission from and after February 1, until further notice, after having seen receipted bill showing that the New York Central Railroad allowed them a commission of 35 cents per barrel, and that the Erie Railway allowed them a commission of 20 cents per barrel on Bradford oil and 30 cents per barrel on all other oil, and that they had been doing so continuously since the 17th of October last.

Of this, however, you saw the evidence yourself in the bills which I submitted to you last week. Please, therefore, prepare vouchers in favor of the American Transfer Company, per Daniel O'Day, for this commission of 20 cents on shipments during February, March, and April, and hereafter make settlements with that company monthly.

Yours, truly,

A. J. CASSATT,
Third Vice-President.

R. W. DOWNING, Esq., *Comptroller.*

[Copy of Pennsylvania Railroad Company's Exhibit No. 53. Pittsburgh, May 8, 1879. J. B. Swetszer, master.]

Agreement made the 4th day of November, 1875, between the Empire Transportation Company of the first part, and the Buffalo, New York and Philadelphia Railway Company of the second part:

Whereas the party of the first part is engaged in constructing a pipe line for the transportation of petroleum from the petroleum territory at and near Limestone, in the county of Cattaraugus, in the State of New York, to Olean in said county.

And is also the proprietor of a freight line, and engaged in the carriage and transportation of petroleum, merchandise, and property upon various railroads in the States of New York, Pennsylvania, and elsewhere.

And whereas the party of the second part is a railroad corporation, owning and operating a line of railroad between Buffalo, in the State of New York, and Emporium, in the State of Pennsylvania, where it intersects with the Philadelphia and Erie Railroad.

Now this agreement witnesseth:

First. That the party of the first part, in consideration of the agreements of the party of the second part, hereinafter contained, does hereby agree to go on and complete its pipe line to Olean, and there to construct and, during the continuance of this contract, maintain so many petroleum tanks as shall be required to contain the petroleum which may be transported by such pipe line, and that it will bring to Olean by such pipe line all the petroleum which it may be able to procure from said petroleum district (said district being deemed to include all the territory within a radius of 15 miles, taking Limestone as a center) to be forwarded under this contract by said second party.

Second. That it will construct and maintain its own loading racks and appurtenances thereto for loading cars with oil, and load all cars carrying oil in bulk from its tracks or line of pipe without charge or expense to the party of the second part.

Third. That it will furnish and maintain at its own expense all the cars that may be required in the transportation of such petroleum or its product, and keep the said cars in good order and condition for use.

Fourth. That it will assume all responsibility for any and all loss of petroleum or its products by leakage and all loss or damage to such cars while upon the road of the party of the second part, unless such loss or damage shall have been caused by the gross fault or negligence of the party of the second part.

And also said party of the first part agrees that it will save said second party harmless from all loss, damage, or liability by reason of the matters of or for which said party of the first part assumes responsibility as aforesaid.

No petroleum or product thereof shall be shipped except under a bill of lading, the form of which shall have been approved by said party of the second part.

In consideration of the agreements herein contained on the part of said party of the first part, the party of the second part hereby agrees:

First. That it will haul the cars which shall be required for use in the transportation of such petroleum or its products between Olean and Emporium, and between Olean and Buffalo, and it will furnish all the siding room required in loading the same at Olean.

Second. That it will not, during the continuance of this contract, enter into any agreement with any other party by which it shall agree to charge through rates, that is to say, rates from the wells, for the transportation of petroleum over its said road.

Third. And it further agrees that it will not accept at any point on its roadway any petroleum or product thereof for transportation at any less rates from said point than shall be charged under this contract through from the wells via said pipe line to the point of destination of such petroleum.

Fourth. And said party of the second part further agrees that it will move such cars as promptly as it moves its own freight cars, and will be responsible for any loss or injury to such cars or their contents while in transit over its road, except as hereinbefore provided.

The ordinary wear and tear of said cars shall be deemed to include all disabling of wheels, axles, and journal-boxes which shall take place under fair usage, and the repairs of all or any of such ordinary wear and tear of such cars as may be made by said party of the second part, charging the party of the first part therefor the current prices for making the same, which amount the party of the first part hereby agrees to pay to said party of the second part upon demand.

It is mutually agreed, by and between the said parties, that as a compensation for carriage through its pipe line, and for the storage and loading at Olean of all petroleum or its product, forwarded southerly to any point east of Emporium, or northerly to any point east of Buffalo, said first party shall be entitled to what would be 20 per cent. of the entire through rates on such petroleum, provided it had all been forwarded to New York City, except, however, that such percentage shall yield not less than 10 nor more than 20 cents a barrel.

Upon all petroleum or products forwarded to Buffalo said party of the first part shall be entitled as a compensation for carriage through its pipe line and for storage and loading at Olean to 40 per cent. of the through rates thereon, provided, however, that such percentage shall not yield less than 10 nor more than 20 cents a barrel.

It is further mutually agreed that the rates of transportation of such petroleum or its products shall be fixed from time to time by the parties hereto by mutual agreement; but it is understood that it will not be possible so to fix the rates easterly by Emporium except by the concurrence of the Pennsylvania Railroad Company.

All moneys earned by the transportation of such petroleum or its products shall, in the first instance, be collected and received by said party of the first part. From such moneys said party of the first part shall first retain the amount to which it shall be entitled under the foregoing provisions hereof for transportation by its pipe line and for storage and loading at Olean, and also upon petroleum sent to New York City, the sum of 3 cents for each 100 pounds of the petroleum there delivered for terminal expenses. Of the balance a portion equal to 18 per cent. of what the earnings would have been if all of such petroleum had been carried at through rates to New York (less 27½ per cent. of said 18 per cent.) shall be paid over, as hereinafter provided, by said party of the first part to said party of the second part.

And it is further agreed that said party of the first part shall make such reports of the business done under this contract as the party of the second part may require, and that said party of the second part may verify the same in any manner that it may desire.

Accounts for the business for each month shall be rendered by said party of the second part by the 20th day of the next succeeding month, and the balance due thereunder shall be paid by said party of the first part to said party of the second part within five days thereafter. If, however, the party of the second part shall so elect, said party of the first part shall remit on the fifteenth and last days of each month the estimated amount due for the half month, and the balance, if any, with the month's report, on or before the 25th day of the succeeding month.

Said party of the first part assumes the entire risk and expenses of the collection of freight moneys, and guarantees the prompt payment of the moneys from time to time going to said second party without loss or deduction of any kind.

Nothing herein contained shall be construed to make the parties hereto copartners. It is also understood that the 3 cents per 100 pounds on petroleum forwarded to New York is to compensate said party of the first part for terminal expenses.

And said party of the first part agrees that if such terminal expenses shall at any time be less than said 3 cents per 100 pounds, the amount to be retained by it as a compensation therefor shall be decreased accordingly.

This contract shall continue in force for three years. It may be sooner terminated by the party of the second part by a written notice of three months to said party of the first part of its desire so to do, and upon payment to it of the value of its said pipe line, if said party of the first part shall desire to dispose thereof.

If the parties hereto can not agree on such value, each party shall choose an arbitrator, and the two arbitrators shall conclusively fix said value, but if they can not agree they may call in a third man, and the decision of the two of the three shall be binding on the parties hereto. Said estimated value shall not exceed the actual cost of said pipe line. Upon payment for said pipe line said party of the first part shall convey the same, including all rights of way, unincumbered, to such party or parties as said second party shall designate.

At the end of three years, if three months' previous notice of the intention to terminate the same shall have been given by either party, this contract shall terminate. If not it shall continue until such notice shall have been given.

In witness whereof the parties hereto have caused the signatures of their respective presidents and the seals of their respective companies to be attached hereto, the day and year first above written.

(Indorsed:) Copy. Agreement. Empire Transportation Company with Buffalo, New York and Philadelphia Railway Company. The copy on our file is unexecuted and bears this indorsement:

"This is a copy of an agreement, the original of which is held by us in escrow.

"BOWEN, ROGERS & LOCKE.

"BUFFALO, February 21, 1876."

Mr. Gowen having concluded reading the testimony, and Mr. Potts having still failed to arrive, a recess was taken until 2.30 o'clock p. m.

AFTER RECESS.

TESTIMONY OF AUGUSTUS H. TACK.

AUGUSTUS H. TACK, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. What is your age?—A. I am fifty-four years of age.

Q. Are you now connected with the petroleum trade in any manner?—

A. As a producer.

Q. In what region?—A. In what is called the upper region.

Q. Bradford district?—A. Yes, sir.

Q. Were you at any time in the business of refining petroleum?—A. Yes, sir.

Q. Where?—A. Pittsburgh, Pa.

Q. What was the name of your firm or corporation?—A. The Citizens' Oil Refining Company.

Q. What capacity was it?—A. Its capacity was a thousand barrels a day.

Q. In what year did you commence?—A. We commenced in the year 1869.

Q. And up to what time did you continue refining?—A. Up to November 25 or 26, 1874.

By Mr. McKINNEY:

Q. I understood you to say you commenced in 1879?—A. No, sir; I said 1869.

By Mr. GOWEN:

Q. During those five or six years that you were engaged in business what other individual refineries, or what number rather of individual refineries, were there in existence in that portion of Pennsylvania; how many do you suppose?—A. We figured there were in the neighborhood of fifty or fifty-two.

Q. Of those fifty or fifty-two how many at that time — ?—A. There were a great many small ones around. I do not know whether they were all in Pittsburgh or not.

Q. I mean in western Pennsylvania?—A. Yes, sir.

Q. How many of those fifty-two refineries were controlled by the Standard Oil Company when you commenced business, do you suppose?—A. We did not know anything of the Standard Oil Company, except the Standard Oil Company of Cleveland; their business was in Cleveland.

Q. You knew nothing of the Standard Oil Company having any?—A. I knew very little of them then. It was looked upon that they were not geographically located right. Their crude had to be carried 300 or 400 miles west, and then come back to the sea-board.

Q. Now state whether or not at that time, as subsequently, the majority of oil that was refined went to foreign countries?—A. Yes, sir.

Q. A large majority?—A. Yes, sir; a large majority was export oil.

Q. State whether you do not know that, at the present time now, about two thirds goes to foreign markets?—A. Yes, sir.

Q. Therefore, so far as the geographical position of these refineries in western Pennsylvania is compared with that of the Standard Oil Company, which was at that time in Cleveland, you had a far better position than they had?—A. Yes, sir; we had the Alleghany River, you know, for our crude supply. We were almost as good as if we were at the wells.

Q. You shipped the crude supply down the Alleghany River by barges or bulk-boats?—A. And the Alleghany barges besides.

Q. Do you remember what it cost you per barrel to get a barrel of crude down the river to your refinery at that time?—A. Thirty-five cents.

Q. The Standard Oil Company were then engaged in business at Cleveland, which is how many miles from the oil region?—A. I do not know how many miles it is, but I figured in my mind that it was three or four hundred miles. I think they had from three to four hundred

miles against them in the way of transportation. That is calculated now by double the route, going west and coming back. I ought to know, but I do not. If I did know I have forgotten it.

Q. At all events, as compared with you, they had the disadvantage of having to take the oil farther west and bringing it an equal distance back again to get at a point at which you already were?—A. Yes, sir.

Q. Now, what became of these individual refineries and yourself? First, take yourself. You went on to 1874; then what became of you?—

A. Well, of course in the start everything was *couleur de rose*, so much so that we put our works in splendid shape. We manufactured all the products. We even got it down to making wax, and using the very last residuum in the boilers. We got the works in magnificent order and used up everything. We began to feel the squeeze in 1872, began to feel that the cords were drawing tight on us. Our prospects were looking pretty blue. We did not know what was the matter.

Q. What was the result?—A. Of course we were all affected the same way in Pennsylvania, and of course we commenced shifting about and meeting together and forming delegations and going down to Philadelphia to see the Pennsylvania Railroad; meeting after meeting and delegation after delegation. We suspected there was something wrong, and told those men there was something wrong somewhere; that we felt, so far as position was concerned, we had the cheapest barrels, the cheapest labor, and the cheapest coal, and the route from the crude district was altogether in our favor. We had a railroad and a river to bring us our raw material. We had made our investment based on the sea-board routes, and we wanted the Pennsylvania Railroad to protect us. But none of our meetings or delegations ever amounted to anything. They were always repulsed in some way, put off, and we never got any satisfaction. The consequence was that in two or three years there was no margin nor profit. There was generally from \$2.75 to \$3 a barrel lost to us between the crude and refined at the same moment. In order to overcome that we commenced speculating, in the hope that there would be a change some time or other for the better. We did not like the idea of giving up the ship, and we would either buy our raw material before we sold the refined, or else, if it looked like a spurt in the market, we would sell our refined before we bought the crude, in order to catch on to a profit. Sometimes we would make a profit, and sometimes we would have a small loss; but it always resulted in a loss; the average year's business was bad.

Q. What became of you in your enterprise?—A. We went struggling along in that way under a depression of that kind until 1874, and failed.

Q. What became of your works?—A. The beginning of 1875 the works were passed over to the Standard Oil Company under a lease. I went out of the thing entirely. I went into bankruptcy. I think my stock, I had between a third and a half, went into the assignee's sale, and some of the old partners bought it up for a nominal figure, \$3,000 or \$4,000.

Q. How much capital was represented in that investment and plant in your refinery?—A. About \$300,000.

Q. You say up to that time that was what was called a modern refinery, with all the appliances for utilizing all the material?—A. All the material was in perfect order.

Q. That is, from benzine and naptha to the wax?—A. Yes, sir; we found a market for everything that there could be a market for.

Q. Was there any reason, and if so, what was it, why that enterprise was unsuccessful as compared with the Standard Oil Company?—

A. There was just no other reason, except they had drawbacks from freight, and we had not. We always had to pay the open rate.

Q. You have stated that during these times that you were losing money, at any one given time, the difference between the price of crude and the price of refined would also have involved a loss to one who paid the same amount of freight that you did?—A. All the time.

Q. Now, during these times did the Standard Oil Company fail and go to pieces, or did they gradually increase their ownership in the trade, and if so, to what extent?—A. It increased very largely and was increasing then. It increased so perceptibly and so strong that we at once recognized it as the element. Instead of looking to the railroad I always looked to the Standard Oil Company. I went to see Rockefeller.

Q. Who was he?—A. John Rockefeller, president of the Standard Oil Company. I went on in 1874; I do not know whether after consultation with partners or not. We could not bear the idea of meeting the inevitable which was staring us in the face. I went on to see him, to see if we could make any arrangements with him by which we could run a portion of our works.

Q. State what occurred?—A. It was a very brief interview.

Q. What was the result?—A. He said there was no hope for us at all. He remarked this—I cannot give the exact quotation—"There is no hope for us," and probably he said, "There is no hope for any of us;" but he says "The weakest must go first."

Q. And you went?—A. And we went.

Q. What was the amount of your individual loss in that thing; your own share of capital that was ruined?—A. I lost everything I had, and not only that, but I lost my relations' money; I lost my father's money. Towards the end I took Government bonds from him, and I am paying interest on it to-day, \$15,000 of his money.

Q. Now, do you know of any reason why you should have been treated in that manner and forced into bankruptcy and ruin, while other people who had no greater claim than you upon the Government or upon common carriers became rich; do you know of any reason for that?—A. I do not.

Q. Did you ever attempt to seek redress for yourself?—A. In what way do you mean?

Q. In any way?—A. We tried to correct it by having those delegations go down to the railroad company. Further than that we did nothing.

Q. When did you discover the fact that these rebates were being paid or had been paid?—A. We never discovered it as a fact until the testimony was taken in 1879.

Q. That is what I meant?—A. We always suspected it, and alleged that that was the case; but we never knew it of our personal knowledge, and never would really have known it of our personal knowledge. At least we did not know it up to that time, until the testimony came out in that investigation.

Q. You knew, did you not, that it was the duty of common carriers to treat all alike?—A. Yes, sir; that is, we knew it was their duty if they would do it. I don't know as I was very well posted about the laws on the subject. I supposed that was their duty. I could not imagine anything else, and I could not see any other reason why they should not.

Q. What do you think would be the effect upon the community and upon the stability of Government, if it was known and accepted as a fact, that the common carriers of this country had the sole right to de-

termine who should make money in any particular business, and who should lose it?—A. I think the nation would become a nation of tramps, excepting a few favored men.

Q. Do you think that republican institutions would be worth preserving if the transportation companies of the country by a series of dishonest rebates had a right to make 2 or 3 per cent. of the community rich, and the other 97 or 98 per cent. bankrupts?—A. I do not think they would be. I think I would want to migrate or emigrate, whatever you call it.

Q. Right away?—A. Yes, sir. You asked me if we had any redress awhile ago. I felt that I should like it many a time; but I was too poor. I was going around to make a living and had no time to do any fighting.

Q. Did it never strike you that a combination between one manufacturer and a common carrier for the purpose of destroying the business of a rival manufacturer was a conspiracy?—A. Yes, sir; I think so, according to what I know about conspiracy.

Q. You never attempted then to recover damages for this injury done to you?—A. I never did. I was told by Mr. Shores, of Pittsburgh, that I ought to keep the case alive; but I was too much depressed and too much disheartened.

Q. He was your counsel?—A. No, sir; he was not my counsel.

Q. I mean he was a member of the bar?—A. Yes, sir; he said we ought to commence suit and keep it alive against the Pennsylvania Railroad; but we did not at that time, and the time went by. I say I was depressed at the time, and after time went along I got into producing and other business. I had no time to fight. We had to get around and shaped up so as to make ends meet.

Q. If from 1869 you had received from the railroad companies the same rates that the Standard Oil Companies received, and as low as anybody else received, what do you think would have been your position now as compared with what it was when you were turned into bankruptcy?—A. I am satisfied we would have been very rich men, because the matter of over or under production would not have affected us. The consumption was widening; every twenty-four hours it was broadening, and we always had a market if we could get a manufacturer's margin. We did ship a thousand barrels a day from our sidings. If we could have got 10 cents a barrel on it it would have been an immense thing; it would have been fully 12 per cent. on our capital.

Q. If there had only been a margin of profit of 10 cents between the cost of crude petroleum?—A. Of course it would have been lower than we were getting at the start, but of course we would have been satisfied with it, because it would have been a safe, solid business.

Q. What amount of rebate or discrimination do you think was necessary in order to turn the trade away from you individual refiners and give it all to the Standard Oil Company? What, in your judgment, is the lowest amounts that would have done that?—A. I think even that amount would have done it entirely.

Q. Even 10 cents?—A. Yes, sir; because on our works we made \$100 a day, \$3,000 a month, \$36,000 a year, which would have told in time.

Q. Do you think 20 cents would have done it?—A. No question about it. At those flush days we did not think it was a big thing, but it would have done it. Since then we have had to figure closer.

Q. If there had been a discrimination of over 20 cents, whereby the favored refiner could have made 15 cents, and the man discriminated

against would have lost 5 cents in refining, that difference alone in a short time would have turned the business over to the favored man?—

A. The interest alone would have eaten him up. The investment of his plant would have killed him in time.

Q. You heard the testimony of Mr. Campbell here this morning?—

A. No, sir; I did not get here until late. I had an invitation to call on the President and I went to see him.

Q. It was proved when Mr. Campbell was on the stand that the rebates given the Standard Oil Company on crude oil were at one time 49 and 51 cents per barrel; on refined were 65½ cents per barrel. I now ask you as a refiner and as a business man?— A. As an ex-refiner. (Laughter.)

Q. Well, as an ex-refiner—whether you know of any reason why, if the object of these rebates or allowances were to consolidate the trade in one hand only, so high a rebate as that was allowed. Can you account for any reason?—A. No, sir.

Q. Do you not think that, as affecting the treasury of the railroad company, if they wanted to get all the business in one hand, and could do it for 20 cents a barrel, it was great folly to pay 49 and 60 and 65 cents for it?—A. Of course, you ask me now about what I think?

Q. Yes.—A. I will tell you about what I think. I think it has probably made that rate not only to enrich the parties that it was given to, but also to enrich the men in the railroad—the controlling power. That is what I think.

Q. Have you any knowledge of it?—A. No, sir. You asked me what I thought. I could not prove it, but I think the men became rich in that way, by controlling the business, or fixing men so that they could become private partners in the trade. The reason I thought, in my mind, there was a select crowd, was because they could deal better with smaller crowd without risk to themselves than they could with a mob.

Q. Now, if the Pennsylvania Railroad and other railroad companies had treated all the refiners alike and all the producers alike, and made a fair, open, and honest rate to all, so that every one had his fair show, do not you think the companies could to-day, by keeping all that oil business upon the lines of their railroad and deriving the enormous profit from it, make it pay?—A. No question about it at all; not the slightest question. The business has been one of increasing magnitude right along, both in regard to its consumption and its production.

Q. Did it make any difference to you, or would it have made any difference to any refiner practically, what, within a reasonable amount, the actual rate was to tide-water, provided everybody was treated alike?—A. None whatever. We never complained about the rates of freight. We paid that for a long time in the beginning of our career without having any feeling about it. It was in 1872 that we commenced to feel there was something up.

Q. The only questions as to whether a rate was too high were two, were they not, viz: First, because it might be higher than somebody else was paying— A. Repeat that again, please.

Q. I say there were only two questions which entered into the consideration as to whether the rate on crude oil to tide-water was too high, viz: First, it was higher than somebody else was paying, and therefore unjust; and second, it might be too high to enable the American people to compete against Europe?—A. Yes, sir. If we were all upon the same basis and all in the same position, no matter what the rate was, so that the foreign power or anything outside of this country might

not be able to compete with us, it made no difference so we could get the price.

Q. Shipments of petroleum have reached nearly thirty millions of barrels a year, have they not?—A. Yes, sir.

Q. Would it have made any difference to the refiners or producers if they had paid \$1 a barrel on every barrel shipped, provided everybody was treated alike?—A. None whatever. I do not think that, even with the enormous supply of Russia, at that rate to-day Russia could begin to compete with us.

Q. That was just the question I was about to ask you; whether a rate of as high as \$1 a barrel would not still have enabled the American refiner to compete with the world?—A. Yes, sir; no question about that.

Q. That would have made \$30,000,000 a year payable to the railroad company, which you gentlemen who produce the oil were perfectly willing to pay if everybody was treated right?—A. Yes, sir; that is all we want.

Q. State whether or not the greatest amount of this oil business has been taken from the railroad.—A. Yes, sir; taken by another system.

Q. By pipe lines?—A. By pipe lines.

Q. State whether or not, in your judgment, if all refiners had been treated alike and if no one interest had secured the bulk of the trade by unfair and unjust discrimination, there would have been any effort or reason upon the part of the trade to take the business from the railroads.—A. None whatever. They would not have had the capital to build the pipe lines; they got that off the railroad by rebates.

Q. Do you believe the railroad companies would have lost this enormous business, that would have amounted to \$30,000,000 a year, except by their own action in throwing the trade into one person's hand?—A. Will you please repeat that question?

Q. Do you believe the railroad companies would have lost this enormous business, that would have amounted to \$30,000,000 a year, if they had not, by their own action in giving unjust rebates, thrown the trade into one person's hand?—A. I do not think they would—certainly, up to this present time anyhow. The oil might possibly have been transported by pipe cheaper, but it would have required an enormous amount of capital at that time, and nerve on the part of the people to have risked that, because then it was not known whether the oil could be put through successfully. It was a question whether a long-distance line would be safe, and certainly the railroads would have had the business; and I firmly believe the railroads would have had the business, and could have continued up to this present time, if we had all been on the same basis.

Q. Now, to take this up and bring it down to two or three points, I will ask you first whether, in your judgment, the allowance of these rebates and deductions given to the Standard Oil Company has not resulted in the following, viz, first, in breaking up all the individual refiners who did not coalesce with the Standard Oil Company?—A. Yes, sir; there are probably two exceptions; there is one little refinery that did not break up; there were some men whose capital did not give out, and they bought them out; they bought them out and took their works. There was Lloyd, in Philadelphia, whose works, like Reichart's, were so small that he could safely close them up without embarrassing his condition financially. I consider that their smallness saved them.

Q. Those are, you think, about the only two exceptions?—A. That I know of. That same condition of things existed all the way up in Titusville the same way; they all went under.

Q. Mr. Cassatt testified, according to the testimony that was read before the committee to-day, that the Pennsylvania road also allowed Mr. Malcomb Lloyd a rebate?—A. Yes, sir.

Q. And Lloyd testified before us that he got a rebate?—A. He didn't get right in at that time. He got in there in the early part of it. They could not keep the rates up all the time, and when the rates were low he would run his oil. They never could make any arrangement with him. I know myself from conversation with him that there were efforts of that kind made. He finally came under some kind of a contract arrangement by which he was allowed a certain rebate.

Q. To pursue this first head of the subject of destruction to individual refiners, you indicated that, with the exception of the two you named, it practically destroyed all those who did not in some manner connect themselves with the Standard?—A. Yes, sir; you might say it destroyed the whole business. They are so small as not to be worth talking about.

Q. Can you give us any estimate or get at any estimate of the amount of capital that was destroyed or rendered unproductive by this discrimination of the railroad companies?—A. I had it figured up at that time and stated before the Board of Trade in Philadelphia that I thought it was fully \$17,000,000.

Q. Seventeen millions of dollars' worth?—A. Lying between Saint Clair's bridge and Pittsburgh, and the Sharpsburgh bridge, 7 miles above.

Q. That money was honestly the property of those who owned it, was it not?—A. Yes, sir; I believe as honestly as the property of any man that ever lived, because the Pittsburgh refiners, when the United States Government was collecting 10 cents on a gallon for home consumption, paid every dollar of it manfully, while I am sure other refiners did not. Every man went up and paid his \$4 a barrel on all he sold for home trade.

Q. During the war?—A. Yes, sir; as long as that revenue law existed.

Q. In one region of Pennsylvania alone, and in and around Pittsburgh and its vicinity, the result under the first head of the effect of these rebates was to destroy \$17,000,000 worth of property?—A. Now, I do not know how I got those figures, but I know I stated them once before the Board of Trade meeting at Philadelphia. We were trying to get an independent pipe line through; but I will say it would have been over \$30,000 for each refiner, if I am right about that number, and I think I am. I got my estimate from an item that was used in another case at that time. I know the figures were taken from that case. O'Brien used it in a Commonwealth case, in which he said in the neighborhood of Pittsburgh there were thirty-two refineries, and I think they were all there. I think \$17,000,000 were destroyed—annihilated.

Q. The second result, then, of this system of rebates was to throw the business into one hand?—A. Yes, sir; that is what it did, anyhow.

Q. What amount of money do you think, from the year 1869 to the present year, 1887—which would be about nineteen years inclusive—has been made directly and indirectly by the Standard Oil Company and their affiliated interests as the results of these rebates, which were admitted by Mr. Cassatt and spoken of by Mr. Campbell this morning?—A. I have not the slightest doubt in my mind that they made fully \$250,000,000. There is no question about that. Their stock shows to-day \$150,000,000, and I know from their enormous investment of

outside enterprises \$100,000,000 would not be too much for that, also including their living expenses. They pay very liberally. They pay big salaries to everybody. They do not skin themselves either, in regard to living. I think they live in great style.

Q. That amount of \$250,000,000 has been accumulated in practically one interest only, as the result of illegal railroad discrimination, has it not?—A. That is the way I look at it. There is no question about that in my mind.

Q. Do you think the sentence in the Declaration of Independence that all men are created equal, is lived up to where such a condition of society is acquiesced in by governmental powers?—A. I have often thought of that declaration since I have had this practical experience, and I thought it was "a little off" as far as its practically applying to us is concerned.

Q. What do you think of the clause in the constitution which prohibits a man's property being taken away from him, except by the law of the land, if it can be done by unjust discrimination? Did it not destroy your property?—A. Yes, sir.

Q. Made you a poor man?—A. We were wiped out entirely. I did not have 25 cents in my pocket. I had to borrow \$25 to go to Pittsburgh to settle my bankruptcy affairs.

Q. Now, I will come to the third and last result of this discrimination. Has it not resulted in taking the oil business away from the railroads?—A. Yes, sir.

Q. So that they themselves have lost a valuable traffic?—A. They got to be the bosses of the railroads.

Q. The Standard Oil Company?—A. Yes, sir; since they got in power; they got in in 1877 or 1878, and became the power and laid the lines, and that made them the bosses.

By Mr. SMITH:

Q. Do you believe that the State of Pennsylvania could convey the oil as well as the Standard Oil Trust?—A. I have not the slightest question about it.

Q. Could the oil be carried as cheap by the State as by the Trust?—A. Every bit of it. The reason I answer this question this way is, because we were discussing that question this morning. We were figuring among ourselves—the few producers that are here—that if the State of Pennsylvania would take charge of this pipe line we would agree to pay the debt of the State of Pennsylvania off of the pipeage. That is to say, if we were all put on an equal basis. That is all we would ask. We would pay the debt of Pennsylvania from the oil production.

Q. Then you believe that if the State of Pennsylvania owned those lines you would be dealt with fairly?—A. If they owned the lines?

Q. Yes.—A. I believe if there was law enough in the State to force them to do it, and they didn't get into any political cliques or any rings, it would be all right.

Q. Do you believe that a system of pipe lines owned by the State of Pennsylvania would be more demoralizing to the oil producers and refiners in their business than the present system owned by the Standard Oil Trust?—A. It would be equally so if they had any favors. There would be no difference in the demoralization if some parties were favored as against others.

Q. Do you believe there can be any such thing in public?—A. I know there is.

Where?—A. Right here in this very case now.

Q. That is a private undertaking?—A. I don't know exactly what you mean. If you take the State and put a sufficient guard around it so that we would be all treated alike, we would be satisfied to enter into a contract to pay the State debt.

Q. If the State owned the pipe lines or railroad lines at the time you were in the refining of oil, would you have gone into bankruptcy?—A. Not if we had been all on the same basis.

Q. Would you not be on the same basis where the public is concerned that way, or owns it?—A. I think we would.

Q. Are you not on the same basis where a canal is owned by the State?—A. You are talking about pipe lines, and at that time the only pipe lines in the district were local pipe lines.

Q. I said also railroad lines.—A. If you meant transportation to the sea-board we would have been on an equal basis, and there would have been a prosperous business for all those men, because it was a fine, splendid business, and men could have easily adjusted themselves at any time to any excess of production or demand if we had been all on the same basis. But we had to stand in day after day and meet the market with from 25 cents to \$1 a barrel loss at any moment in the day, while the other parties were just filling all the European orders.

Q. Canals no doubt are means of transportation, are they not?—A. Yes, sir.

Q. The State of New York has made the Erie Canal free, has it not?—A. So I understand.

Q. Suppose the State of Pennsylvania would make the oil-pipe lines or the railroads free on the same basis, so that any company could run its trains on them, but the road-bed would be free and be rented to, say the oil producers, and they must share like and like, would it not be better than the system now?—A. There is no question about that. I do not care who does it, if they are all alike. If you make the highway just the same for one as another we do not care anything about who does the business.

Q. Was the crude and refined oil carried in bulk or in barrels over the Pennsylvania Railroad?—A. The crude was carried in bulk and the refined in barrels at that time. Since that time they have got to carrying refined in tanks also, except for export.

Q. On the average, about how many barrels to a car?—A. At that time I think about 60, that is to say, of refined oil in barrels, and in crude at that time it was about 80. They have increased all of those things since.

Q. What is the charge per barrel now in crude, say from the oil regions to Philadelphia?—A. I don't know as I know what it is now. I know from Pittsburgh to Philadelphia it is 45 cents on refined. It would be lower on crude.

Q. Do you believe a barrel of oil in the crude state could be conveyed for less than 40 cents from Pittsburgh to Philadelphia and still leave a good margin to the transportation company?—A. I think 40 cents is a very low rate. I think, according to what we used to pay, \$1.65 and \$1.75 for the same thing on a barrel, it would strike me, from the old bills I used to pay, that that would be very cheap. That is, it would strike me as being very low.

Q. If flour can be conveyed from Minneapolis to New York for about 60 cents a barrel, do you not think a barrel of crude oil in tanks could be conveyed for less money than 40 cents?—A. Yes, sir. We got so used to the high price we paid that it is very hard for us to conceive of

anything of that kind as being dear. It looks so awful cheap to me; there may be an immense profit in it, too. From what we paid, \$1.75, it looks awful cheap to me.

Mr. GOWEN. That is, at the rate of 8 mills a ton.

Mr. SMITH. When you get car rates at 60,000 pounds capacity you can put in 60,000 pounds of flour or wool, or iron, or oil.

Mr. GOWEN. Yes; but the rate per ton is what gauges the ability to transport. Eight mills a ton a mile is a very good rate for low-classed freight.

By Mr. GOWEN:

Q. Do you not think if the State of Pennsylvania had compelled her own common public servants, the common carriers, to perform their duty as common carriers you would have gotten along very well?—A. We would have had no trouble. I went up when the Parker district opened up and sunk some wells, and was furnishing the refinery with my own crude as far as I could. We would use up 1,200 or 1,300 barrels a day. I suppose I could furnish 1,200 or 1,300 barrels of oil a day from my own wells.

Q. When you found that you were losing money and suspected that something was wrong, if you had the power to go into any court and get a writ of mandamus instantly issued to compel the Pennsylvania Railroad to move your oil at the same rate they were moving it for the Standard, would not that have given you the relief you wanted?—A. I believe it would. At that time I consulted attorneys in regard to this business and they could not see any way by which I could get immediate remedy.

Q. You wanted immediate remedy?—A. Yes, sir.

Q. So that your business would not be broken up during the long time occupied by lawsuits?—A. Yes, sir; it was nip-and-tuck every day in regard to finances. We felt that we would not have to fight. We were constantly hoping that there would be a change in the Pennsylvania Railroad direction. We were constantly hoping that Mr. Roberts would be president of the Pennsylvania Railroad, and we were hanging on the hope that that change would take place. That is what made us put in all our own private fortunes and back up all the company's debts with our indorsement, and besides that we borrowed all our relations' money we could.

Mr. SMITH. Uncles and aunts?

The WITNESS. Yes, sir.

By Mr. SMITH:

Q. Is there as much labor now employed in the oil districts as there was at the time when you were well fixed in the oil refining business?—

A. I would say, without knowing accurately, that the business has been on the increase all the time; that there are probably more people employed, more people interested, because it has been broadening and broadening every year, and the consumption is widening. There are more people employed, but at very much less rates. There is not much in it. It is like the labor everywhere else; it is pretty small. That is in consequence of our low prices.

Q. But the gentlemen in charge of the Standard Oil Trust are well compensated?—A. We figure that that is where it all runs to.

TESTIMONY OF WILLIAM W. HARKNESS.

WILLIAM W. HARKNESS, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. How long have you resided there?—A. All my life.

Q. What is your age?—A. Fifty-nine.

Q. State whether or not you have been in the oil-refining business?—

A. I was in the oil-refining business in about 1870, I think, with my younger brother. He was the active man, and business was carried on in his name. I was his backer and the financial member of the concern.

Q. Where was the refinery?—A. On the west side of the Schuylkill River, in Philadelphia.

Q. What was its capacity?—A. Now, about the details of the refinery I do not know much. What I testify to will be as matter of memory. I was not actively engaged in the executive part of the business.

Q. You looked after the finances?—A. Yes, sir. I was away a great deal. I was a producer in West Virginia.

Q. Were you also a producer of oil?—A. Yes, sir; in West Virginia, twenty years ago. You asked about the capacity. As far as I can recollect it was 500 barrels of refined oil a day.

Q. How much capital was represented in your works, and plant, and property upon which it was situated?—A. I think when we were compelled to succumb, as near as I can recollect, we had about \$130,000 represented.

Q. You say you were compelled to succumb. State when that occurred?—A. I was the originator of the enterprise, believing that there was no better place than Philadelphia to refine oil, particularly for export. It was the shortest distance between the point of production and the point of export, and we could use the side product in Philadelphia. We could get our labor and coal cheaper there, I considered, than in Pittsburgh, and, as Mr. Tack has testified, certainly better than in Cleveland, where you have to take your oil from Cleveland over to the point of export. I thought Philadelphia was a good place to refine oil. I believed we could learn the business. We did not know anything about the business.

We commenced then, as near as I can now recollect, about 1870, and notwithstanding the difficulty that Mr. Tack has alluded to, we made money up to probably 1874. We managed our business very close and did not speculate in oil. We bought and we sold and we paid a great deal of attention to the statistical part of our business so as to save waste, and we did a nice business. But we found in some years that probably five months out of a year we could not sell our oil unless it would be at a positive loss, and then we stopped. Then when we could sell our oil we found a difficulty about getting cars. That is what Mr. Campbell testified to this morning when he spoke about the Empire Transportation Company, and there being no rebates while they were in existence. Sometimes we would have to sell our oil at a loss, and we would have to stop; other times we could not get the cars, and other times it was dangerous to sell oil ahead. We could have no reliance on oil coming to us. My brother would complain of it, but I believed that the time would come when that would be equalized, and I had no idea of the iniquity that was going on; I could not conceive it. I went

on in good faith until about 1874, and then the trouble commenced. We could not get our oil and were compelled to sell at a loss. Then Warden, Frew & Co., who afterwards appeared for the Standard Company—William G. Warden was friendly with my brother; they lived near each other, and their families were intimate. He formed some kind of running arrangement where they supplied the crude, and they seemed to get along a little better.

Q. That is a branch of the Standard?—A. That was absolutely the Standard. Mr. Warden was one of the founders of the Standard. We did not know it at the time. After a while the business got complicated, and I got tired and handed it over to my brother; I backed out. That was about 1875. I was dissatisfied and wanted to do an independent business, or else I wanted to give it up. In 1876—I recollect that very well, because it was the year of the Centennial Exposition—he said——

Q. Who said?—A. My brother. We were at the Centennial Exposition. I was sitting in front of the great Corliss engine, admiring it, and he told me there was a good opportunity to get out; that this concern——

Q. What concern?—A. Warden, Frew & Co.; he said they were prepared to buy us out, and I asked him whether he considered that as the best thing to do; whether we had not better hold on and fight it through, for I believed that these difficulties would not continue; that we would get our oil. I knew he was a competent refiner, and I wanted to continue business, but he said he thought he had better make this arrangement, and I consented, and we sold out; we got our investment back.

Q. Prior to the time at which you sold out could you make any money without reliance upon the Standard Oil Company?—A. We did not know anything about the Standard Oil Company. You mean up to the time this squeezing process commenced?

Q. I mean up to the time it commenced; could you make any money in your business?—A. No, sir.

Q. Did you in 1879 have any knowledge of the investigation that was going on about which Mr. Campbell has testified?—A. In 1879?

Q. The Attorney-General's proceedings against the railroad companies and the examination before General Switzer.—A. It was in 1877, was it not?

Q. In 1878.—A. That had transpired.

Q. Were you present at that examination?—A. Yes, sir; most of the time I was present.

Q. You discovered then that these rebates had been given?—A. Yes, sir; we suspected them before.

Q. Had you any knowledge of it before?—A. No, sir; no actual knowledge.

Q. Have you any doubt about this fact—that if you had a rate to Philadelphia identical with the Standard rates, and as low as anybody else, that from your position in Philadelphia on tide-water you could have transacted a successful business?—A. Certainly.

Q. You think you could have?—A. Certainly.

Q. That is to say, you have no doubt of the fact?—A. I have no doubt that we could have transacted a successful business.

Q. Do you know of any reason why you should have been prevented by an illegal discrimination from exercising your right as an American citizen to make money out of a legitimate business?—A. I know of no reason.

Q. Do you think at that time if you had had a speedy and effective remedy, such as a writ of mandamus, to compel common carriers to transport for you as low as anybody else, you could have gone on with your business successfully?—A. Certainly I could have gone on.

Q. State whether since you sold out your interest in your original refinery you at any time purchased other property with a view of going into the business again, when you hoped a change would take place in the transportation business so that you could be put on equal footing with others?—A. Yes, sir; I believed that change would take place. I believed then, as I believe now, that there was no better point in the country for buying oil than the point we selected.

Q. Did you select other property?—A. Yes, sir; we selected a hundred acres, with probably a thousand feet on the Schuylkill River, in Philadelphia, a little further south than the one we had experimented on, and we knew exactly what we needed better than we did when we first went there.

Q. State whether you had any plans or sketches made of a refinery, and, if so, to what extent you proposed to erect one.—A. When I was compelled to succumb, as I said, I thought it was only temporarily; that the time would come when I could go into the business I was devoted to. We systematized all our accounts and knew where the weak points were. I was in love with the business. I selected a site near three railroads and the river. I took a run across the water. I was tired and discouraged, and used up in 1878, and was gone three or four months. I came back refreshed and ready for work, and had the plans and specifications and estimates made for a refinery that would handle 10,000 barrels of oil a day, right on this hundred acres of land. I believed the time had arrived when the Pennsylvania Railroad would see their true interest as common carriers and the interest of their stockholders and the business interest of the city of Philadelphia, and I took those plans, specifications and estimates—took the estimates themselves, and I called on Mr. Roberts.

Q. Who was he?—A. President of the Pennsylvania Railroad Company. I had consulted one or two other gentlemen, whose advice was worth having, whether it would be worth my while to go to see President Roberts. I saw Col. Joseph D. Potts, the gentleman we are waiting on now, and I believe he had the best interests of the Pennsylvania Railroad at heart, because he had expressed himself to me—

Mr. GOWEN. Mr. Harkness, all I want is an answer to my question as to what you did when you went to see the officers of the Pennsylvania Railroad. Tell us what occurred between yourself and Mr. Roberts.

The WITNESS. I went there and laid the plans before him and told him I wanted to build a refinery of 10,000 barrels capacity a day. I was almost on my knees begging him to allow me to do that. He said, what is it you want? I said, "I simply called to be put upon an equality with everybody else, all the shippers, and especially the Standard Oil Company." I said, "I want you to agree with me that you will give me transportation of crude oil as low as you give it to the Standard Oil Company or anybody else for ten years, and then I will give you a written assurance that I will do this refining of 10,000 barrels of oil a day for ten years." I asked him if that was not an honest position for us to be in; I, as a manufacturer, and he, the president of a railroad; what we are now extending to Claus Spreckels in Philadelphia, asking him to come there and build his refinery. Mr. Roberts said there was a great deal of force in what I said, but he could not go into any written assurance. This interstate commerce matter was being agi-

tated here in Washington by the oil people. I said I believed the time had come when that agitation would become a law.

Q. Just tell us whether Mr. Roberts agreed or did not agree that you could transport oil over his road at the same rate with the Standard Oil Company.—A. He said he would not go into any such agreement, and I saw Mr. Cassatt. He said, in his frank way, "that is not practicable, and you know the reason why."

Q. You called on the railroad officers to know whether they would give you the same rate as the Standard Oil Company, and they declined to do it?—A. Yes, sir.

Q. They would not agree to make a contract to give you the same rate that they gave the Standard Oil Company?—A. No, sir.

Q. Without that you were not safe in building?—A. No, sir.

Q. If they had given you that contract and assurance, would you have gone on and given them that business?—A. Most undoubtedly.

By Mr. SMITH:

Q. About how much money would you have spent there?—A. About \$500,000, and probably a couple of hundred thousand dollars more. I have not that in my memory now, but I have it written down. My recollection is that the capital necessary to handle the business of that concern would have been about \$500,000.

Q. About how much labor would you have employed?—A. I can not tell now.

(At this point, 4 o'clock p. m., the committee adjourned until to-morrow at 12 o'clock m.)

WASHINGTON, D. C., *April 26, 1888.*

The committee met pursuant to adjournment at 12 m.

Present: The chairman, and Messrs. Breckinridge, Bynum, McKinney, Grimes, Bunnell, Crouse, Smith, and Buchanan.

After a brief executive session the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

TESTIMONY OF JOHN SCHWARTZ.

JOHN SCHWARTZ, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. In Titusville, Pa.

Q. What business are you engaged in?—A. Refining oil.

Q. How long have you been engaged in that business?—A. Since July, 1882.

Q. Will you kindly state whether recently, and, if so, when, you presented a claim to the Pennsylvania Railroad Company to allow you a rebate on your oil in consequence of rebates having been given to other people?—A. Yes, sir; I did in August, 1886.

Q. You made the claim upon them that they had been giving rebates to others which you had not received, did you not?—A. My claim was made for an overcharge, under the understanding that they had been giving other manufacturers in the same line of business a less rate.

Q. What became of your claim when you made it to them? Did they pay it?—A. Yes, sir.

Q. On how many barrels?—A. I can not give the exact number of barrels, but the total amount was seventeen hundred and sixty-six dollars and some cents.

Q. At what rate per barrel?—A. Thirteen cents a barrel.

Q. This claim that you made was up to what period of time—it extended over the shipments of what years?—A. It extended from the time I began running the works until January, 1, 1885; that is, over the years 1882, 1883, and 1884.

By Mr. CROUSE:

Q. But you were not paid until 1886?—A. No, sir.

By Mr. GOWEN:

Q. You did not make your claim until 1886?—A. No, sir.

By Mr. CROUSE:

Q. And you made it because you heard that, during those years in which you had been shipping, rebates were given to other parties?—A. Yes, sir.

Witness dismissed.

TESTIMONY OF FRANK L. WOODS.

FRANK L. WOODS, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Titusville, Pa.

Q. What business are you engaged in?—A. Refining oil.

Q. How long have you been engaged in that business?—A. Since the fall of 1882.

Q. State whether you have recently, and, if so, when, made any demand upon the Pennsylvania Railroad that they should give you an allowance or rebate on your past shipments in consequence of what you had heard others had received; and, if so, what it was, and what happened in consequence.—A. In the fall of 1886 I learned that they had paid rebates to other shippers amounting to 13 cents a barrel on all shipments over the Pennsylvania Railroad, and I made out a claim for the number of barrels I had shipped at 13 cents a barrel, forwarded it to them, and requested to be re-imbursed, and they did re-imburse me.

Q. They paid you?—A. Yes, sir.

Q. They did not require any suit, or anything of that kind?—A. No, sir.

Q. Over what period of time did the shipments extend for which they paid you this rebate?—A. From 1883 to the 1st of January, 1885.

Q. Why did not you make the demand until 1886?—A. We did not have any evidence, and the parties who recovered the rebates first had simply included that period, and we thought it best not to apply for anything we had no assurance of.

Q. State whether or not before making this claim you had had information that other parties had recovered against the Pennsylvania Railroad Company similar allowances on account of the rebates which had been allowed to others.—A. Yes, sir; we did.

Q. What was the nature of that information you had received?—A. Nothing, only assurances that such was the case, and for me to make application and I would get my money.

Q. You found that was true?—A. Yes, sir.

Q. This rate was 13 cents?—A. Yes, sir.

Witness dismissed.

TESTIMONY OF LEWIS EMERY, Jr.

LEWIS EMERY, jr., sworn and examined.

By Mr. GOWEN:

Q. Mr. Emery, where do you reside?—A. In Bradford, Pa.

Q. That is in what is known as the Bradford oil region, is it not?—A. Yes, sir; Northern Field.

Q. You are in the senate of Pennsylvania, are you not?—A. I am, sir.

Q. You have been engaged in the oil business in various parts of it, have you not, for many years?—A. Yes, sir; commencing with 1865.

Q. Were you in 1865 a producer or a refiner?—A. I was a producer.

Q. In what region in 1865?—A. In Venango County, known as the Oil Creek Region.

Q. That is what is known as the Lower Field?—A. The Middle Field.

Q. As distinguished from Bradford and the Lower Field?—A. Yes, sir; at that time there was but one field.

Q. Did you become a refiner of oil at any time, and if so, when?—A. I became a refiner in 1867.

Q. Where were your works located?—A. At Pioneer, Venango County, Pa.

Q. At that time, 1867, when you commenced refining oil, what proportion, if any, of the production in Pennsylvania was controlled by the Standard Oil Company as a producer?—A. Nine-tenths of it or more.

Q. By the Standard?—A. I take that back. I thought you stated by independent producers.

Q. Did the Standard have any production at that time?—A. There was no Standard Oil Company then in the sense that we have it now.

Q. Well, when did you first hear of the Standard Oil Company as a factor in the oil trade?—A. In 1872, under the name of the South Improvement Company.

Q. I will come to that afterwards. Prior to 1872, when this Standard interest was known as the South Improvement Company, have you any knowledge of any interest whatever in the oil business possessed by the Standard Oil Company prior to that?—A. Not as the Standard Oil Company is to-day.

Q. But as it was any time?—A. There was an organization in the State of Ohio known as the Standard Oil Company, located at Cleveland, of which Rockefeller, Andrews, and Payne were members.

Q. What did they have in the early years?—A. No refinery in the oil country, to my knowledge.

Q. What did they have in Cleveland?—A. They had works there with a capital of \$100,000.

Q. Had they, to your knowledge, any interest in the production of oil?—A. None, whatever, to my knowledge. I do not know that they have now, either.

Q. What capital had you invested in your works when you commenced in 1867, as a refiner in Venango County?—A. My capital was very small at that time, as we were beginners in the business—we had about \$5,000 to \$7,000 invested in the works.

Q. Did you increase that; did your works grow to be larger?—A. Later on we did; under another name.

Q. What name?—A. The Octave Oil Company in 1870. In 1869 we commenced the construction of the Octave works in Titusville, Pa.

Q. To what extent did they grow, so long as they remained inde-

pendent and under your management ?—A. Our works had a capacity of about 800 barrels of crude per day.

Q. Now, then, you have stated that your first knowledge of the introduction of the Standard as it is known to-day in the trade was in 1872, when the South Improvement Company came into existence ?—A. Yes, sir.

Q. Now tell us what you know of the South Improvement Company ; what was it, and what position did it take in the trade ?—A. It was organized under a charter that was issued for another purpose by the legislature of Pennsylvania ; but it seemed to answer the purpose of what was then known as the South Improvement Company, which was virtually the Standard Oil Company.

The CHAIRMAN. Let me suggest to you that what we want here is a statement of facts, and as far as possible keep to a relation of the facts as they exist rather than conclusions which have grown up in your mind since. For instance, you say "which was virtually the Standard Oil Company." That is something we would rather find out by knowing the facts than from a statement of your opinion.

The WITNESS. The fact is as I have stated. I read the charter, and I know it was not intended for the purpose for which it was used.

The CHAIRMAN. No ; you said "the South Improvement Company, which was virtually the Standard Oil Company." What we want to get at is a statement of the facts as they arose instead of conclusions which you may have formed.

The WITNESS. I did know it, because the South Improvement Company only lasted from January, 1872, to March, 1872.

By Mr. GOWEN :

Q. Now, how do you know that ?—A. Because after that time the South Improvement Company's charter was annulled by the legislature of Pennsylvania.

Q. And you had knowledge of that fact ?—A. Yes, sir ; I did.

Q. Did you know that the people composing the South Improvement Company were the same as now control the Standard Oil Company ? Did you know that as a matter of fact ?—A. The plan was not so fully developed then as at present, but the same people are still connected with the Standard Oil Company as were then connected with the South Improvement Company.

Q. Was Mr. Rockefeller one of them ?—A. He was.

Q. Did you know the rest ?—A. Andrews, Flint, Flagler, and Amasa Stone.

Q. Bostwick ?—A. Not at that time, to my recollection.

Q. And these gentlemen whose names you have given are men who are now prominently connected with the Standard Oil Company ?—A. Yes, sir.

Q. You say the contract only lasted from January 8, 1872, to March 25, 1872, of the same year ?—A. I did not say "contract." I said "charter."

Q. State whether the repeal of that charter was in consequence of the protest which had come up from the oil regions ?

The CHAIRMAN (to Mr. Gowen). Will you kindly prove whether this was a special charter and a special repeal ?

By Mr. GOWEN :

Q. This was a special charter and specially repealed, was it not ?

The CHAIRMAN. When was that granted ?

The WITNESS. That is hard to tell.

Q. When was the act passed?—A. Somewhere along in 1865. It was enacted as part of what is known as the omnibus legislation of that time. These charters were procured and then sold to any one who wished a charter under the laws of Pennsylvania.

Q. You mean this was a charter procured by people for sale to anybody who wanted a charter, and that it lay in abeyance for some years?

The CHAIRMAN. Let me get at the facts of this matter. Do I understand this was a special charter—an act incorporating a single company to be known as the South Improvement Company?

The WITNESS. Yes, sir.

Q. And that act was repealed?—A. Yes, sir.

By Mr. GOWEN :

Q. But this act was passed several years before it was used to apply to the oil trade?—A. Yes, sir.

Mr. GOWEN. At that time there was no constitutional provision which prohibited special legislation by the legislature of Pennsylvania.

The CHAIRMAN. These things are doubtless very familiar to you gentlemen who live in Pennsylvania, but they are not to me, and I like to understand them as I go along.

By Mr. GOWEN :

Q. Turning from the facts existing in 1872 down to 1879, when the investigation took place into oil matters under the bill in equity which had been filed by the attorney-general of Pennsylvania in the name of the Commonwealth against the Pennsylvania and other railroad companies, I want you to tell us what was the condition of the oil trade between those two periods, viz, from 1872 to 1879, and especially with reference to the rates that were enjoyed by the Standard Oil Company, and to the portion of the trade which they secured?—A. In 1872 there existed in the oil country in the neighborhood of two hundred and fifty refineries, all competitors. There existed at that time also thirteen independent pipe lines, all competitors.

Q. Just here, in speaking of those pipe lines, were they not all local lines leading from the wells to the railroads?—A. And some of them to the refineries.

Q. No one of them led to tide-water or to the ocean at that time?—A. No, sir.

Q. Well, go on.—A. Under the contract which was entered into between the Pennsylvania Railroad and the South Improvement Company by which a certain rate of freight was established, which was to be enjoyed by all who were in the business, that was the open rate, but the South Improvement Company, as it was then called, afterwards the Standard Oil Company, was to have certain rebates, ranging from 40 cents to \$1.06 per barrel. The 40 cents rebate was allowed upon western shipments to Cleveland, for instance, and a rebate of \$1.06 was allowed on all eastern shipments to Boston, New York, Philadelphia, and Baltimore.

Q. That was on crude oil?—A. Yes, sir; on crude oil.

The CHAIRMAN. And stated at so much per barrel?

The WITNESS. Yes, sir; per barrel. The drawbacks on refined ranged from 50 cents to \$1.32 per barrel.

The CHAIRMAN. Is this the contract between the railroad company and the South Improvement Company?

The WITNESS. He asked me the rates of freight. I did not go into the contract. I merely answered his question.

The CHAIRMAN. I wanted to comprehend it, that is all.

The WITNESS. I mean no offense. I want to answer everything. We were refining oil at that time in Titusville. We had invested about \$85,000 in works known as the Octave Oil Works, a company chartered under the laws of Pennsylvania. An opportunity was given us to become a member then of that company—the South Improvement Company—which we refused in toto to have anything to do with. I may say, sir, that up to this present date I have refused to have anything to do with it. The result was that owing to this large drawback, which was given by this contract between the South Improvement Company and the Pennsylvania Railroad Company, we were driven out of the business.

Q. In what manner?—**A.** From the fact that we could not refine oil and sell it at the prices that the Standard Oil Company—the South Improvement Company—had placed that commodity at.

Q. Owing to the rebates?—**A.** Yes, sir; due to the rebates.

Q. Do you know of any other reason?—**A.** No, sir.

Q. State whether or not your knowledge of your business was not equal to theirs.—**A.** It was, sir. We had the very best. There were men in our employ at that time who are in their employ at the present time.

Q. Did you sell out to them at that time?—**A.** Yes, sir.

The CHAIRMAN. What time?

The WITNESS. In 1873. We received \$45,000 for works which cost us \$85,000.

Q. Did that refinery under their control continue thereafter?—**A.** Yes, sir; it continues to-day.

Q. And has it been successful?—**A.** Yes, sir.

By Mr. WILSON:

Q. Did you know what hurt you at the time?—**A.** We knew that rebates were being given at that time, because we went to the Alleghany Railroad at Pittsburgh and made our complaint, and we received the information then and there that a contract had been made by which the South Improvement Company had a grant for shipping all the oil over that line of road; the exclusive right, as it were.

The CHAIRMAN. Did not I understand you to say that this South Improvement Company was in existence as a factor in the oil trade only from January to March of the same year?

The WITNESS. Yes, sir.

The CHAIRMAN. And that was in 1872?

The WITNESS. Yes, sir.

By Mr. GOWEN:

Q. State whether, after the repeal of the charter of the South Improvement Company, in March, 1872, the same system of business that had been inaugurated by the contract with that company was continued to the Standard Oil Company?—**A.** It was, under a reduced rate of freight.

Q. Under a reduced rate of freight?—**A.** Yes, sir.

Q. At what period of time did you ascertain that the railroads, notwithstanding the repeal of the charter to the South Improvement Company, continued to make rebates to the Standard?—**A.** From the fact of the falling off of the business—

Q. No; but at what period of time did you discover as a fact that they had been giving drawbacks?—**A.** In 1873.

Q. How did you discover it; from actual knowledge, or because your

business was unproductive?—A. No, from actual knowledge; because of what we learned at Pittsburgh.

Q. But in 1879 did not you then, through the testimony of Mr. Cassatt and others, discover that these rates were being paid?—A. Previous to that time, in 1877, at the time of the delivery of these documents to the executive of Pennsylvania, we discovered it.

Q. But the testimony was not taken until after that?—A. No, sir.

Q. What I am coming at is whether you had real, actual legal knowledge of those facts before the facts were brought out by the testimony in this suit which Mr. Campbell has testified about.—A. I did not.

Q. Therefore you only presumed that this rebate was given because your business fell off and theirs was successful?—A. Yes, sir.

Q. What proportion of the business in those years did the Standard Oil Company acquire?—A. They wiped out the whole of the independent element.

Q. Ultimately, or were there some left?—A. I do not think there existed to exceed five independent refiners in the country at that time.

Q. Now state whether or not you have made a statement that will show the names of some or all, as the case may be, of the independent refiners, and where they were located, who were forced out of business in consequence of this favoritism to the Standard Oil Company. Is that a correct statement [handing paper to witness]?
The WITNESS (after examining paper). Yes, sir.

Mr. GOWEN. Mr. Chairman, I should like to offer this in evidence.

The CHAIRMAN. Very well; identify it first by the witness.

By Mr. GOWEN:

Q. Is that paper correct?—A. Yes, sir; to the best of my knowledge and belief.

Q. Was it prepared under your own direction?—A. It was, sir; and is correct of my own knowledge.

The following is the paper referred to:

EXHIBIT A.

Partial list of petroleum refineries in Pennsylvania bankrupted, squeezed out, bought up, leased, or dismantled by the great oil monopoly of Ohio and New York, known as the Standard Oil Company.

Name of refiner.	Location of refinery.	County.	Weekly crude capacity.	
W. King & Co	Philadelphia.....	.....	1,500	Bought by Standard.
W. L. Elkins.....	do .....	.....	2,000	Leased to Standard.
J. L. Stewart.....	Gibson's Point.....	.....	1,500	Bought by Standard.
N. W. Hawkins.....	do .....	.....	2,000	Run by Standard.
Stewart, Matthews & Pennington.	Point Breeze.....	.....	1,500	Bought by Standard.
Calson & Cullin	Philadelphia.....	.....	1,000	Do.
Greenwich	do .....	.....	1,500	Dismantled by Standard.
National.....	do .....	.....	800	Bought by Standard.
Narriestown.....	do .....	.....	500	Do.
Atlantic	do .....	.....	12,000	Originally owned by Warden, Frow & Co., alias Standard.
Union Oil Works.....	Erie.....	.....	1,050	Squeezed out, 1874.
J. V. Boyer.....	do .....	.....	105	Squeezed out, 1882.
D. Kennedy & Co.....	do .....	.....	700	Squeezed out, 1887.
Downing & Douglass.....	do .....	.....	210	Squeezed out, 1888.
United States Oil Company.....	do .....	.....	420	Squeezed out, 1872.
Witter & Co.....	do .....	.....	525	Squeezed out, 1888.
Cleveland & Co.....	do .....	.....	3,500	Squeezed out, 1872.
Ely & Co.....	do .....	.....	1,400	Squeezed out, 1874.

Partial list of petroleum refineries in Pennsylvania bankrupted, etc.—Continued.

Name of refiner.	Location of refinery.	County.	Weekly crude capacity.	
Louis Werts.....	Erie.....		105	Squeezed out, 1864.
J. W. Hammond.....	do.....		210	Squeezed out, 1867.
J. G. Farwell.....	do.....		210	Do.
Boyce & Tennant.....	do.....		875	Squeezed out, 1866.
Morning Star Oil Works.....	do.....		210	Do.
Everett & Blissell.....	do.....		210	Do.
— Bannister.....	do.....		35	Squeezed out, 1865.
Perry Oil Company.....	do.....		219	Squeezed out, 1872.
D. S. Wright & Co.....	do.....		280	Squeezed out, 1865.
D. S. Clarke.....	do.....		700	Squeezed out, 1872.
V. M. Thompson.....	do.....		2,500	Squeezed out, 1866.
Thayer Brothers.....	do.....		1,050	Squeezed out, 1872.
W. J. Watkins.....	do.....		175	Squeezed out, 1778.
Scott & Co.....	Titusville.....	Crawford.	1,500	Dismantled in 1874.
Decker & Co.....	do.....	do	1,200	Do.
M. N. Allen.....	do.....	do	1,200	Do.
Donahue & Co.....	do.....	do	1,000	Dismantled in 1877.
John Johnson & Co.....	Miller Farm.....	Venango.	1,500	Do.
Dudley & Co.....	do.....	do	1,500	Do.
Rogers & Co.....	do.....	do	800	Dismantled.
De Ze Vella & Co.....	Pioneer.....	do	1,000	Do.
E. J. Straight.....	Ball Run.....	do	700	Do.
U. C. Walton.....	do.....	do	800	Do.
William Docharty.....	Pioneer.....	do	250	Do.
Herman Connell & Co.....	Petroleum Centre.....	do	1,600	Dismantled in 1877.
Sansfield & Co.....	do.....	do	1,000	Dismantled.
Patterson Bros.....	do.....	do	1,500	Do.
Standard Oil Company.....	Story Farm.....	do	2,000	Do.
Levi Kerr.....	Tarr Farm.....	do	1,000	Dismantled in 1878.
John Wallace.....	Bynd Farm.....	do	800	Dismantled in 1877.
Do & Co.....	do.....	do	800	Do.
Laughlin & Co.....	Rouseville.....	do	800	Do.
Wamsutta Oil Company.....	McClintockville.....	do	1,000	Dismantled in 1875.
— Casatt.....	Clapp Farm.....	do	1,000	Dismantled.
Ryder & Co.....	McClintockville.....	do	175	Do.
Crosnier & Co.....	Reno.....	do	175	Do.
W. H. D. Chapin.....	Corry.....	Erie	175	Do.
John Johnson.....	Union City.....	do	1,000	Do.
Rochester Oil Company.....	Oleopolis.....	Venango	1,000	Do.
H. L. Holden.....	Williamsport.....	do	1,800	Bought by Standard.
Solar Oil Company.....	do.....	Lycoming.	12,000	Do.
Porter, Moreland & Co.....	Titusville.....	Crawford.	6,000	Do.
Octave Oil Company.....	do.....	do	3,000	Do.
Pickering & Chambers.....	do.....	do	1,750	Do.
Teague Bros.....	do.....	do	500	Do.
Easterly & Davis.....	do.....	do	2,500	Do.
William Teague.....	do.....	do	750	Do.
Bennett, Warner & Co.....	do.....	do	3,500	Do.
Hinkley & Barnedall.....	do.....	do	1,500	Do.
Imperial.....	Oil City.....	Venango	21,000	Do.
Galeana.....	Franklin.....	do	700	Do.
Eclipse.....	do.....	do	1,400	Do.
Keystone.....	do.....	do	1	Dismantled.
Lyons.....	do.....	do	1	Do.
Debb & Co.....	do.....	do	1	Do.
Steele & Co.....	do.....	do	1	Bought and shut down.
Funk & Co.....	do.....	do	1	Dismantled.

In Pittsburgh there were fifty-eight refineries in 1877. Thirty refineries have been crushed out and dismantled. No record left. The remaining twenty-eight have been bought up or leased by the great monopoly. They are as follows:

Style of works.	Firm name.	Weekly crude capacity.	No. of stills.
1878.			
American	Holdship & Irwin	6,828	3
Aladdin	Aladdin Oil Company	4,017	3
Brilliant	Lockhart & Frew	13,078	9
Bly's	David Bly & Co.	2,490	4
Cosmos	R. S. Waring	7,394	6
Citizens'	Citizens' Oil Works	6,072	9
Central	Central Refining Company	21,867	14
Crystal	Livingston Brothers	3,624	4
Eagle	William P. Logan & Co.	2,444	4
Federal	King & Goodman	2,456	5
Fairview	D. Hostetter	2,138	3
Iron City	John Speer & Co.	1,600	3
Keystone	P. Welsenberger & Co.	1,018	2
Lions	J. C. Kirkpatrick & Co.	564	2
Lilly	Brooks, Ballentine & Co.	2,072	6
Liberty	J. A. McKee & Son	5,496	7
Model	Model Refining Company	3,232	2
Muller's	A. D. Miller	5,228	4
National	Standard Oil Company	5,538	6
Nonpareil	Lockhart & Frew	1,318	3
Penn.	H. S. A. Stewart	1,854	3
Peerless	Central Refining Company	3,758	2
Petrolite	Warmser, Myers & Co.	1,703	2
Radiant	J. D. Stockdale	1,906	3
Riverside	Elkins & Flack	1,809	5
Star	E. J. Waring	3,718	5
Standard	Standard Oil Company	7,250	8
Vesta	R. J. Waring	8,058	8

Twelve of these are shut down and sixteen only are fitted for business; capacity per week, 105,251 barrels.

There are but three independent refineries in or near Pittsburgh to-day; they are:

	Barrels.
The Empire, Reighart & Co.	5,100
Bear Creek Refining Company	3,900
Waverly	3,120

Total independent capacity per week..... 12,120

The total refining capacity of Pittsburgh is 117,371 barrels per week, and the total amount of refined produced in 1880 in Pittsburgh was but 12,560 barrels a week.

PENNSYLVANIA'S INDUSTRY DRIVEN TO NEW YORK.

As an offset to the refineries bought up, leased, crushed out, dismantled, and the like, the following list of refineries in New York City and vicinity is appended, to show how the refining business has been driven from Pennsylvania into New York. In 1863 the total exports of petroleum and its products from the United States amounted to 28,250,721 gallons. Of this amount, there was shipped eastward from Pittsburgh 26,970,280 gallons, being 97 $\frac{4}{10}$ per cent. In 1878 Pittsburgh's percentage had fallen to 16 $\frac{4}{10}$ per cent. In 1874 the entire refining capacity of the city of New York amounted to 54,000 barrels per week. In 1881 it has increased to the following (258,100 barrels), all of which, with one exception, are owned or controlled by the Standard Oil monopoly:

Name of works.	Weekly crude capacity.	Name of works.	Weekly crude capacity.
Kings County	28,000	Greenpoint	2,100
Long Island	28,000	Washington	2,450
Charles Platt	21,000	Locust Hill	2,100
Bergen Point	17,500	Somers's	1,050
Wallabout	14,000	Harron	700
Peerless	8,400	Rau's	700
Empire	7,000	Meyer's	700
Oleophene	7,000	American	700
Brooklyn	7,000	Atlantic	1,400
Franklin	5,000	Bayonne	60,000
Vesta	5,000	Newtown Creek	10,000
Queens County	5,000		
Lombard, Ayres & Co	18,000	Total	258,100
Wickes's	8,500		

Barrels.

In Philadelphia the total weekly capacity of the Standard refineries is 77,000
 Of the independent refineries 31,200
 In the oil region the total weekly capacity of the Standard refineries is 48,900
 Of the independent refineries (one only left) 1,800

RECAPITULATION OF WEEKLY CRUDE CAPACITY OF PENNSYLVANIA.

	Standard.	Independent.	Total.
Philadelphia	77,000	31,200	108,200
Pittsburgh	105,251	12,120	117,371
Other points	48,900	1,800	50,700
Grand total	231,151	45,120	276,271

Since 1868 refineries with capacity equal to all that exist at present in Pennsylvania have been crushed out and dismantled by the Standard, and refineries of more than equal capacity have been built up by that company in Cleveland and New York.

The refining capacity of Cleveland, which has been exclusively controlled by the Standard, and which business should have been retained in Pittsburgh, is 150,000 barrels per week.

GAIN AND LOSS OF REFINING BUSINESS.

In Pittsburgh the business done in 1863 was 97.5 per cent. In 1880 it was only 5.5 per cent. In Philadelphia the business done in 1868 was 42.36 per cent. of the export business in petroleum. In 1880 Philadelphia did only 16.8 per cent. of the export petroleum business. In 1870 the total production was 5,240,555 barrels, of which Philadelphia handled 1,101,636 for export. In 1880 the total production was 25,960,260 barrels, an increase of 500 per cent., and Philadelphia handled 1,065,918 for export—actually 15,718 barrels less than in 1870.

Pennsylvania formerly refined 97.4 per cent. of all the oil produced. She now refines 14.4 per cent. If she had retained the business, as she might have done, she would have saved in 1880 \$14,627,279, all of which would have been paid out for work done by our own citizens, and materials furnished by our own industries.

Q. State whether or not these suits of the Attorney-General against the Pennsylvania and other railroad companies in 1879 did not lead to an agreement on the part of the Pennsylvania and other railroads that they would treat everybody alike.—**A.** Yes, sir.

Q. State whether or not you, and if you know it, others, were invited at that time by the Pennsylvania Railroad Company to engage again in the business of refining oil and to erect refineries?—**A.** Yes, sir.

Q. You were?—**A.** Yes, sir.

Q. Have you personal knowledge of the fact that others were also invited?—**A.** Yes, sir; I might say so. A general invitation was given

to all who wish to engage in the business along the lines of the Pennsylvania Railroad at equal rates of freight.

Q. State whether you know of your own knowledge whether any inducement in the way of lower rates of freight for the transportation of material, etc., were offered to individuals to induce them to locate refineries along the line of the road?—A. The Pennsylvania Railroad gave us every facility.

Q. To what extent?—A. Hauling our materials; making no charges for switching—from the Reading Railroad for instance—in fact did everything they could for us.

Q. State whether you accepted their invitation and engaged again in the business of refining?—A. I did.

Q. Where?—A. In Philadelphia; I commenced the construction of a refinery there in June, 1880.

Q. Did you complete it?—A. I did, sir.

Q. At what period was your refinery ready for business?—A. In 1881.

Q. What was the capacity of your refinery?—A. A thousand barrels of crude per day.

Q. What amount of capital was represented by your plant?—A. Two hundred and fifty thousand dollars.

Q. And including the capital necessary to do business what do you suppose it represented?—A. About \$325,000.

Q. State what your experience was as a refiner in this new enterprise located in Philadelphia.—A. Well, it did not prove to be a profitable investment.

Q. Give us the reasons, and give us the facts as to things that occurred, or in the first place, I will ask you from whom, and in what manner did you receive your oil at that time?—A. I received it from the United Pipe Lines into the cars of the Pennsylvania Railroad, or what is known as the Green Line.

Q. That is to say, the United Pipe Lines was a local line serving as the means of transport from the wells to the railroad?—A. Yes, sir.

Q. The oil was then loaded into tank cars and transferred to your refinery by the Pennsylvania Railroad?—A. Yes, sir.

Q. Who controlled those pipe lines known as the United Pipe Lines?—A. They belonged to the system of the Standard Oil Company.

Q. Had you any control whatever over the question of drawing your supply of oil from those lines; that is to say with reference to what character of oil it should be. Had you any control of that yourself?—A. No, sir.

Q. You had to depend entirely on them?—A. I bought the certificates in the market, and the oil was delivered to me upon the certificates.

Q. Now state what kind of oil was furnished to you during the first few years of your experience as a refiner in Philadelphia?—A. I attribute our failure to make money in great part to the quality of the oil furnished to us.

Q. What was the quality of that oil?—A. It was oil that had been in the tanks for a number of years. It was unavailable for our purposes and would not bear a gravity of more than 39½ to 42, while the fresh oil produced in the field from which we derived our supply had a gravity of from 43 to 47.

Q. State whether or not oil which has been accumulated for a long time and suffered to remain in the tanks, whether the sediment does not

accumulate to such an extent that when drawn off it is not as valuable as fresh oil which is more volatile?—A. That is a fact.

Q. Please tell us as a refiner what difference in market value per barrel for crude oil would exist between such refuse oil drawn off from the old deposits and fresh good oil?—A. Taking into consideration the premium that the Standard Oil Company pays upon fresh oil—comparing that with the quality of oil delivered to us—there was fully 20 cents a barrel difference.

Q. In value?—A. Yes, sir.

A. State whether or not 20 cents a barrel at that time was not a sufficient amount in the oil business to turn the scale for or against a man?—A. Most assuredly.

Q. State whether or not during all this time you were receiving this poor oil you were not a producer of good oil—fresh oil?—A. Yes, sir; to more than the capacity of my own refinery.

Q. Explain to this committee why this was and what the process was whereby you were prevented from getting your own fresh oil, or oil equally as good, and compelled to take this inferior oil at a difference to you of 20 cents a barrel?—A. They saw fit to give it to me, and I could not help myself.

Q. Why was that? Was it not because you had to deliver your fresh oil to them—because you had no other outlet?—A. Certainly.

Q. You had no other avenue of transportation by which you would get your own oil to your works except by delivering it to them, where it went into the tank with other oil?—A. Yes, sir.

Q. So that they could draw on their own refineries for good and fresh oil and send the residuum and sediment to their rivals?—A. That is what I believe they did.

Q. But you know they had the power to do that?—A. Yes, sir.

Q. And you believe that they did it from the result of your own business?—A. Yes, sir.

Q. State whether there were any tests made to apply to this oil for the purpose of determining just what its value was as compared with good oil?—A. We made tests for nearly three years.

Q. And the result of those tests was this fact of which you have spoken?—A. Yes, sir.

Q. State whether, in consequence of this condition of affairs, you made any attempt to get your own oil to your own refinery?—A. I did, sir.

Q. In what manner?—A. I constructed a pipe line from my own wells to the Rochester and Pittsburgh Railroad which runs in connection with the Philadelphia and Erie Railroad, one of the allies of the Pennsylvania Railroad.

Q. One of the Pennsylvania system, leased to the Pennsylvania Railroad, is it not?—A. Yes, sir.

Q. How many miles of pipe line did you construct to get your own oil?—A. With all the connections, about 25 miles.

Q. Twenty-five miles in all?—A. With all the connections, yes, sir.

Q. After having done that and placed yourself in such a condition that your own works in Philadelphia were connected by a system of transportation through your own pipe lines, and the railroads directly with your own producing wells, state what your experience was in depending upon the railroads for bringing that oil to your refinery?—A. I applied to an officer of the Green Line, Mr W. J. Brundred—

Q. State whether that Green Line was a line running over the Pennsylvania Railroad?—A. Yes, sir; it was owned by the Pennsylvania

Railroad. I applied to him for cars, or I may correct my statement there. I first went to the Rochester and Pittsburgh Railroad to know if they would haul our cars, providing they and ourselves could arrange to get the Green Line cars. Mr. Merchant visited the city of Philadelphia.

Q. Who was he?—A. He was the general manager of the Rochester and Pittsburgh Railroad. He gave me the answer that they would do our business, and that they would get the Green Line cars from the Pennsylvania Railroad. Upon that I constructed this pipe line to my own wells, built what is termed a loading rack for delivery into the cars, and commenced our shipments in the regular way. There was no interruption for thirty days. Finally, the Rochester and Pittsburgh Railroad refused to deliver us any more cars.

Q. Did they give any reason for that refusal?—A. I ascertained, or rather I went to Mr. Merchant and he stated that their people in New York had been visited, and that there was a question whether they could do this business, and keep harmony and keep a certain coal trade, etc., intimating that they might be obliged to throw it up. The result was that I employed an attorney and we served notice upon the manager of the Rochester and Pittsburgh Railroad, Mr. Merchant, that we must have these cars. Before we served this notice, however, we had corresponded with Mr. Brundred—

Q. Manager of the Green Line?—A. Yes, sir; manager of the Green Line; and asked him to deliver the cars to the Rochester and Pittsburgh Railroad. He said, "I have offered to deliver the cars to the Rochester and Pittsburgh, and I can deliver them a hundred cars a day if necessary;" but, he added, they refused to take them. After we had given Mr. Merchant legal notice that we would commence proceeding against their road if they did not give us these cars, the order was given that all cars should be brought in that were delivered by the Pennsylvania Railroad. For a time everything went smoothly; then all at once there were no cars to be delivered to us, and we asked Mr. Brundred why. He said an extraordinary demand had been made for cars and they did not have them. We went to the Pennsylvania Railroad office in Philadelphia and saw Mr. Wilson, the general freight agent of the Pennsylvania Railroad. He said to us, that a requisition had been made by the Standard Oil Company for all the cars they had. I asked Mr. Wilson why there was such a dearth of cars. Well, he said, the cars had been sent to Colorado, Louisiana, and all parts of the country, and they had not returned. I immediately dispatched two men out upon the lines of the Pennsylvania Railroad and I ascertained that out of a possible number of 1,126 cars which belonged to the Green Line, there were only 280 cars within the State line. Then I dispatched men into New York State, and I found that in Buffalo alone there were 300 cars all belonging to the Union Tank Line.

The CHAIRMAN. Is that the same as the Green Line?

The WITNESS. No, sir; the Union Tank Line is the property of the Standard Oil Company. I asked the Pennsylvania people why the cars should so suddenly disappear when they had come to us in 1879, and induced us to build this refinery and agreed that we should have always every facility in the way of transportation. Mr. Wilson said, "I know nothing about it; but we must furnish cars when they are called for, and we have given all our cars to other people." The result was we got no cars and our works were shut down, our pipe line was still, our oil was filling up in our tanks, and we were compelled to turn our oil over to the Standard Oil Company; and finally, in order that my property

might not go to waste entirely, I was compelled to sell it, and the Standard Oil Company purchased it.

Q. When?—A. In the latter part of November, 1887.

Q. State whether you found it possible to conduct your business at all under the system that you were subjected to as a refiner?—A. No, sir; I could not at a profit.

Q. What length of time were you idle from time to time in consequence of the want of cars?—A. During this fight after I built my pipe line three or four months, we were idle more than half the time. Occasionally we would get ten cars. We would get a promise of twenty and get five; we would get a promise of fifty and only receive two or three. We were deviled to death.

Q. After those two or three months how did it go?—A. We got none at all; we could not get any.

Q. How long did your refinery remain idle for want of cars before you sold out?—A. We were compelled to go back to the oil they had been furnishing us—this unmerchantable oil. We had made contracts and were compelled to go back and take that oil to fill them, and when those contracts were filled we stopped.

Q. And sold out your works?—A. Yes, sir.

Q. How long were you idle before you sold out?—A. We kept running up to the time we sold. We had to run to fill our contracts. I want to say right here to the chairman that in constructing this pipe line to run my own oil it gave me a profit of \$200 a day. The cost of handling this oil from the wells did not exceed $1\frac{1}{2}$ cents per barrel, and could I have had those cars and been able to transport my own oil it would not have mattered to me whether I made a profit on the refining or not, I would have still been ahead.

Q. That was due to the fact that by your own pipe line you could remove the oil at $1\frac{1}{2}$ cents per barrel, while in the Standard lines you had to pay 20 cents?—A. Yes, sir.

Q. And for what you paid 20 cents you could do yourself for a cent and a-half?—A. Yes, sir. And I will explain that that was partly from the fact that our works were located on a side hill, and we had only to turn the stop cock and let the oil flow.

Q. You had no pumping?—A. No, sir.

Q. Is there pumping done elsewhere throughout the oil region?—A. There is no pumping directly. There is some suction.

Q. In the local lines?—A. Yes, sir. There are suction-pumps which deliver it into the large tanks and then from there it is forced through the large pipes to New York, Philadelphia, Baltimore, etc.

Q. In connection with the change of business due to the absorption of the traffic by the Standard Oil Company, to the destruction of other interests engaged in opposition to them, I want now to call your attention to the geographical changes that took place in the movement of this oil, due to the fact that their refineries were located at other places in the country than those of their competitors. Now originally their competitors were principally located in Pennsylvania, were they not?—A. The independent refineries were nearly all located in Philadelphia.

Q. Have you made any calculations to show with reference to Pennsylvania, to what extent, with respect to value, and in what proportion this change of the locality of the refining has taken place from the year 1868 to 1878 (handing paper to witness). State whether you prepared that paper?—A. I did, sir; from the statement of the Treasury Department compiled by Mr. Nimmo, chief of the Bureau of Statistics.

Q. Do you believe those figures to be accurate?—A. Absolutely accurate.

The statement referred to was introduced in evidence, and is as follows:

Statement showing exports of petroleum and its products during the fiscal years (ending June 30) 1868 to 1878, arranged to exhibit the growth of the industry and Philadelphia's decline.

[Compiled from the records of the Treasury Department of the United States, kindly furnished by Hon. Joseph Nimmo, jr., Chief of the Bureau of Statistics, by Lewis Emery, jr.]

VALUE.

Fiscal year ending June 30—	Total exports.	Philadelphia.	Other ports.	Philadelphia's per cent.	Other ports, per cent.	Philadelphia's loss.
1868	\$21,810,676	\$8,855,263	\$12,955,413	40.60	59.40	\$1,560,468+
1869	31,127,433	11,071,269	20,056,164	35.56	64.44	1,601,471+
1870	32,668,960	11,662,120	21,006,840	35.39	64.61	3,008,371+
1871	38,694,810	12,782,915	25,911,895	32.86	67.14	1,090,573+
1872	34,038,390	12,728,193	21,330,257	37.37	62.63	2,110,293+
1873	42,050,756	14,932,313	27,118,443	35.51	64.40	2,843,586+
1874	41,245,815	13,902,214	27,343,601	33.70	66.30	4,990,180+
1875	30,078,568	7,212,709	22,865,859	23.98	76.02	4,212,431+
1876	32,915,786	9,151,378	33,764,408	27.20	72.80	13,342,907+
1877*	61,789,438	11,743,600	50,045,834	19.00	81.00	12,652,020+
1878	46,574,974	6,255,419	40,319,555	13.43	86.57	
Total	413,215,609	120,297,337	292,918,269	29.11	70.89	47,468,999

QUANTITY.

	Gallons.	Gallons.	Gallons.		Gallons.
1868	19,456,888	33,061,762	45,795,126	42.36	57.64
1869	106,502,152	36,761,252	63,740,900	36.57	63.43
1870	113,728,423	39,513,640	74,214,783	34.74	65.26
1871	148,677,585	52,776,609	96,900,976	35.16	64.84
1872	145,171,583	56,023,176	89,148,407	38.59	61.41
1873	187,815,187	69,488,809	118,326,378	36.99	63.01
1874	247,806,483	88,087,954	159,718,529	35.54	64.46
1875	221,935,308	58,200,324	163,745,984	26.22	73.78
1876	243,660,152	72,961,914	170,698,238	29.96	70.04
1877*	309,196,914	59,073,682	250,123,232	19.15	80.85
1878	338,841,303	47,806,473	291,034,830	14.10	85.90
Total	2,137,813,978	614,386,895	1,523,427,083	28.74	71.26

* In this year (1877) the Empire Transportation Company sold its line to the Pennsylvania Railroad, which immediately mortgaged the rolling stock to the Standard Oil Company of Ohio and New York.

In 1864, 42.36 per cent. of the whole amount of petroleum exported went to sea from Philadelphia.

In 1878 Philadelphia's percentage had fallen to 14.10 per cent.

During these eleven years (1868 to 1878) the exports from all the other ports increased more than 600 per cent. Philadelphia's exports increased less than 50 per cent.

Had she maintained her percentage her total exports would have amounted to \$47,468.99 more than they were. In 1877 her loss was \$13,342,907+, and in 1878 her loss amounted to \$12,652,020+.

This loss must annually increase with the growth of the business.

The CHAIRMAN. Can you state in connection with this where this amount of oil, which seems to have been diverted from Philadelphia, has gone to?

The WITNESS. Yes, sir; to New York and Baltimore.

Q. So that Philadelphia lost and New York gained by this transaction?—A. Yes, sir.

By Mr. GOWEN :

Q. State what the proportion of oil in 1868 was—what was Philadelphia's proportion of foreign shipment?—A. 40.60 per cent.

Q. And all other ports?—A. 59.40 per cent.

Q. In 1878 what was Philadelphia's proportion?—A. 13.43 per cent.

Q. And of other ports?—A. 86.56 per cent.

Q. State whether or not the principal refineries of the Standard Oil Company are not located in and around New York.—A. Yes, sir.

Q. They have still some in Cleveland?—A. Yes, sir.

Q. And in Buffalo?—A. Yes, sir. Just here I would state that in 1863 Pennsylvania did 97.5 per cent. of all the oil business; and in 1880 she only did 5.5 per cent. of the business.

Q. That is of the refining?—A. Yes, sir.

Q. So that in 1863 she did 97.5 per cent. of the refining business, and in 1880 only 5.5 per cent.?—A. Yes, sir.

Q. What proportion of this oil is produced in Pennsylvania?—A. Do you mean at the present time?

Q. Yes; leaving the Ohio Lima fields out of the question.—A. Calling the total production 65,000 barrels, about 55,000 to 58,000 are produced in Pennsylvania.

Q. What is that?—A. The production of crude oil.

Q. In barrels per day?—A. Yes, sir.

Q. That is, 55,000 barrels per day are produced in Pennsylvania out of a total production in the whole country of how many?—A. About 65,000 barrels.

Q. That is about 85 to 90 per cent., is it not?—A. Yes, sir.

Q. In that do you include the recent production of oil from the Lima field?—A. No, sir.

Q. That oil is not extensively refined?—A. No, sir; not for illuminating purposes.

Q. It is not now entering into competition for illuminating purposes with Pennsylvania oil?—A. No, sir.

Q. That is due to the fact that the Lima oil of Ohio contains some chemical combination with sulphur and other things which makes it impossible at present to refine it successfully, is it not?—A. So I understand.

Q. Mr. Emery, I want to call your attention to a recent publication of the Standard Oil Company by their counsel, Mr. Dodd. Have you seen it?—A. Yes, sir; and read it.

Q. Were you present, or did you take any interest in the examination of the witnesses in the year 1879, in the suit of the Commonwealth of Pennsylvania upon the relation of the Attorney-General against the Pennsylvania Railroad and other shippers?—A. Yes, sir.

Q. You were one of the committee, as I understand, who were instrumental in applying to the governor and instituting those suits, were you not?—A. Yes, sir; I presented our appeal to the executive of Pennsylvania.

Q. You were also the authority, were you not, for the statement which is referred to in Mr. Dodd's book that it was proved during that examination that in a period of, I think, seventeen months—

The WITNESS (interrupting). Seventeen and one-half months.

Q. (Continuing.) The four railroad companies had paid to the Standard Oil Company \$10,000,000 as rebates on the oil carried by them, were you not?—A. Yes, sir.

Q. Look at that paper [handing paper to witness] and state whether you made an analysis—an examination of the testimony given by Mr.

Cassatt, the Standard Oil Company people, and other railroad officers in that suit, in order to ascertain what the total amount of money paid over as discrimination during that period of seventeen and one-half months was.—A. I did.

Q. This paper is the result of that examination?—A. Yes, sir.

Q. Was it prepared by you?—A. Yes, sir.

Q. Do you believe it to be accurate?—A. I do.

The statement referred to was offered in evidence, and is as follows:

ANTI-DISCRIMINATION—WHAT IT MEANS.

Freight on refined from Cleveland, Pittsburgh, Titusville, etc., including crude from mouth of pipe to refinery	\$1.90
Freight on crude from pipe to refinery, paid as rebate .....	.45½
Nominal rates to all shippers of refined	1.44½
Private rebate allowed to Standard Oil Company	\$0.64½
Paid to Pittsburg, Titusville and Buffalo Railroad .....	.10
Terminal charges at Communipaw (New York Harbor) .....	.10
Lighterage at New York Harbor .....	.06
	<u>.90½</u>

Net price received by Erie, Baltimore and Ohio, New York Central, and Pennsylvania Railroads for carrying refined54
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Freight on crude from Oil Creek and Allegheny River districts	1.40
Rebate to Standard as per contract October 17, 1877, 10 per cent	\$0.14
Second rebate to Standard .....	.15
Rebate to American Transfer Company .....	.22½
Terminal charges at Communipaw (New York Harbor) .....	.10
Lighterage at New York Harbor .....	.06
	<u>.67½</u>

Net price received by Erie, Baltimore and Ohio, New York Central, and Pennsylvania Railroads for carrying crude oil72½
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Freight on crude from Bradford district	1.15
Rebate to Standard as per contract, October 17, 1877 (10 per cent.)	\$0.11½
Second rebate to Standard .....	.15
Private rebate to American Transfer Company .....	.22½
Terminal charges at Communipaw (New York Harbor) .....	.10
Lighterage at New York Harbor .....	.06
	<u>.65</u>

Net price received by Erie, Baltimore and Ohio, New York Central, and Pennsylvania Railroads for carrying crude50
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The following table exhibits the total shipment from the oil regions from October 17, 1877, to March 31, 1879, the allotment of each of the four trunk lines of railroad, the amount of rebate or drawbacks paid by each and by all the railways, as per contract between them and the Standard Oil Company. The figures of shipments are taken from Stowell's Petroleum Reporter, published by S. H. Stowell, esq., of Pittsburgh, which publication is recognized as authority by the various branches of the trade, and the rebates average 55 cents per barrel to cover the crude shipped from the lower and the Bradford petroleum districts, Pennsylvania, and the refined shipped from the western refineries.

SHIPMENTS.

	Barrels
October 17 to 31, 1877, estimated	634,485
November, 1877	1,205,615
December, 1877	600,019
Total shipments from October 17 (when contract was signed) until close of year 1877	2,440,139
Total shipments in 1878	13,676,000
Total shipments in first quarter, 1879	2,440,138
Total shipments October 17, 1877, to March 31, 1879	13,556,277
Total rebates during that time, at 55 cents (average) per barrel	\$10,155,218

Of which there was paid to Standard by Baltimore and Ohio Railroad	
11 per cent., as per contract, October 17, 1877	\$1, 116, 633. 98
Paid by New York Central and Hudson River Railroad 21 per cent., as	
per contract, October 17, 1877	2, 131, 755. 78
Paid by Erie Railway 21 per cent., as per contract, October 17, 1877..	2, 131, 755. 78
Paid by Pennsylvania Railroad 47 per cent. (as per contract October	
17, 1877—17½ months).....	4, 771, 072. 46
Total rebates October 17, 1877, to March 31, 1879.....	10, 151, 218. 00

LEWIS EMERY, JR.

Q. Mr. Cassatt testifies that on crude oil the rebate from the lower field was, I think, 51 cents, and from the upper field 49 cents; that was in the case of the Pennsylvania Railroad. How much, according to your examination of that testimony, do you ascertain in the average rate of rebate was that was paid by these railroad companies?—A. Fifty-five cents.

Q. That is but a few cents more than the amount paid by the Pennsylvania—49 and 51?—A. Yes, sir. This was paid by all these four trunk lines.

Q. To the Standard?—A. Yes, sir: to the Standard Oil Company.

Q. Now state what amount of money in seventeen and one-half months that average rebate of 55 cents amounted to?—A. \$10,151,218.

Q. From what source did you derive the information as to the number of barrels that had been shipped by the Standard Oil Company within those seventeen and one-half months?—A. From S. H. Stowell's Petroleum Report, which is an authority.

Q. Where is that report issued?—A. At Pittsburgh, Pa., at that time.

Q. State whether Stowell's statistics are accepted as an authority by the oil trade.—A. Yes, sir; they were at that time. I wish to explain, as some question has arisen in reference to my statements, that I refer in general to what has appeared in testimony.

Q. Just put on record the pages of the printed testimony in those cases from which you derived this information, and give opposite the page the name of the witness who testified to the fact which will be found on that page.—A. I would like this done, because some question has arisen in regard to the truth of the report. Page 363—

The CHAIRMAN. What is this?

Mr. GOWAN. It is from the appendix testimony in the case of the Commonwealth of Pennsylvania upon the relation of the attorney-general against the Pennsylvania Railroad Company in the supreme court of Pennsylvania of the western district.

The CHAIRMAN. Is this the same book as you read from yesterday?

Mr. GOWEN. This was the appendix to the paper book; whereas mine was the report of the master himself.

Mr. CROUSE (referring to the paper offered in evidence by the witness, entitled "anti-discrimination"). Do you propose to offer both sides of this paper in evidence?

Mr. GOWEN. No; he only offered one side.

The WITNESS. I may state that this other side is a part of some remarks I made on this question, and I did not intend to submit them as evidence.

Mr. GOWEN. Now go on with reference to the testimony before the master appointed by the supreme court of Pennsylvania.

The WITNESS. I refer to the following pages:

Page 363, trade reports, J. D. Archbold's testimony.

Page 510, also Archbold.

Page 512, also Archbold.

Page 661, A. J. Cassatt.

That refers principally to this statement that has been put in evidence.

By Mr. GOWEN :

Q. Now, Mr. Emery, have you any doubt in your own mind that with your refinery located at Philadelphia—

The WITNESS. Wait one moment, if you please; I am not through yet.

Page 734, contract between the Standard Oil Company and the Pennsylvania Railroad concerning all shipments of oil.

Page 737, copy of statement of Pennsylvania Railroad of shipments, etc.

Page 689, rebate to American Transfer Company on oil carried by the Pennsylvania Railroad, whether shipped by the company or by other people.

Page 732, letter of Daniel O'Day.

Page 733—

The CHAIRMAN. Before we pass from this statement (referring to Exhibit C) I do not think I exactly understand it. Can you take a copy of that paper in your hand, Mr. Emery, please?

[The witness took up a copy of the paper.]

The CHAIRMAN. The first item you put in is "freight on refined from Cleveland, Pittsburgh, Titusville, etc., including crude from mouth of pipe to refinery, \$1.90."

The WITNESS. Yes, sir.

The CHAIRMAN. Now, that starts out by giving a figure as freight on refined and then seems to include crude. Will you explain how you make up that item?—A. That 45½?

The CHAIRMAN. Take the first item—\$1.90.

The WITNESS. That is the open rate.

The CHAIRMAN. On a barrel of crude oil from the well to tide-water?

The WITNESS. Yes, sir.

Q. Then the next item is "freight on crude, from pipe to refinery, paid as rebate 45½ cents."—A. It is the same as shipping what we term in transit.

The CHAIRMAN. You are using technical language now.

The WITNESS. It was a reduction of 45½ cents allowed on the transportation of the crude oil from the wells to the refinery as a drawback.

The CHAIRMAN. Crude oil from the wells to the refineries. The refineries were on the sea-board, were they not?

The WITNESS. Not at this time; they were all in the country.

The CHAIRMAN. You mean these rates were given at the time as referring to the oil region?

The WITNESS. They were all in the oil country.

The CHAIRMAN. Then the oil that was transported by the railroad at that time from the lower region was refined oil?

The WITNESS. Principally; yes, sir.

By Mr. GOWEN :

Q. Mr. Cassatt said that to the public on refined oil the rate was \$1.90, less 45½ cents. When they charged \$1.90 to a man they allowed a rebate of 45½ cents in order to cover to him what was assumed to be the cost of bringing crude oil to his refinery?—A. Yes, sir.

By the CHAIRMAN :

Q. That made the open rate, then, \$1.44½?—A. Yes, sir.

Q. And on that there was a private rebate of $64\frac{1}{2}$ cents?—A. Yes, sir.

Q. And that is the item which you spoke of as being included in the calculation out of which you estimated the total rebates of ten million odd?—A. I do not take into consideration, however, Mr. Chairman, the terminal charges at Communipaw, or the lighterage in New York Harbor. Those are legitimate charges.

Q. Now, was that rebate—I am not familiar with Mr. Cassatt's testimony, as you gentlemen of course are—allowed on crude or refined?—A. On shipments of refined. To all shippers of refined oil.

Q. Now, there is a private rebate allowed to the Standard of $64\frac{1}{2}$ cents; was that on crude or refined?—A. Refined. Below here there is another system of rebate on crude. There were two rates, two sets of drawbacks, one on the crude and one on the refined.

Mr. GOWEN. Mr. Cassatt testified that the public paid \$1.90, less $45\frac{1}{2}$ cents, making \$1.44 $\frac{1}{2}$, while the Standard rate was 80 cents. Now the difference between 80 cents and \$1.44 $\frac{1}{2}$ is $64\frac{1}{2}$ cents, which, therefore, was the rebate to the Standard Oil Company on refined oil. And these other sums below of 14, 15, 22 $\frac{1}{2}$, 11 $\frac{1}{2}$, 15, and 22 $\frac{1}{2}$ are the rebates on crude oil about which Mr. Cassatt testified.

The CHAIRMAN. What is the American Transfer Company? Is it a pipe line?

The WITNESS. It was a company organized under the laws of the State of New York.

Q. What was its business?—A. It operated a pipe line.

By Mr. GOWEN:

Q. Had you any doubt in your own mind that if you had had at your refinery in Philadelphia the same rates as the Standard and the same good oil, your refinery would have been successful?—A. It would certainly have been successful; I could have made \$75,000 a year.

By Mr. CROUSE:

Q. I want to ask one question. In making up these tables why did you include the terminal charges and the lighterage charges at New York Harbor? That is to say, if the railroad companies had to pay those two charges they paid them alike on all oil which they carried without reference to any rebates; and why are they brought in there?—A. If you will go to work and take the average of my calculation, you will find that 55 cents does not include those charges.

Mr. GOWEN. Those sums are not calculated in the 55 cents.

Mr. CROUSE. If your object was to show what the railroad was charging I do not see what bearing it would have whether the railroad company had to divide up its freights between a lighterage company and harbor charges, and other lines over which it transported. I do not see why those charges are there, and my question is, why were they put there?

The WITNESS. I took the testimony—the whole of it—and put it into the statement just as it appeared in this book. That is all; and you will find that when I make the average of the drawbacks by deducting those lighterage charges, you will find, taking the three items, the average is 55 per cent. of the real drawback charges. I put the other charges on there because they were in the evidence and I did not wish to cut anything out.

Q. Then they have no significance whatever?—A. No, sir.

Mr. GOWEN. They show the net sum, according to Mr. Cassatt's tes-

timony, which was prorated between the different railroads which carried the oil?—A. Yes, sir; because in dividing this up the lighterage may have gone to the Pennsylvania, or the wharves may have belonged to them. You see this is divided up, 11 per cent. to the Baltimore and Ohio. It did not have any terminal facilities, probably—21 per cent. to the New York Central and Hudson River Railroad.

By Mr. GOWEN:

Q. That was a division of trade, not a division of prorate, was it not?—A. I understand; but it was their interest in the whole amount that they had and paid back. The only object in putting those terminal charges in this evidence was that the Baltimore and Ohio and other roads who had no terminal facilities had to pay whatever the percentage was back to the Pennsylvania or whoever it may have been.

Q. Did not this oil come to New York over four or five different railroads?—A. Four.

Q. The principal one being the Pennsylvania Railroad; I mean the oil which went over the Pennsylvania Railroad?—A. To New York?

Q. To New York. It went on the Pennsylvania to Harrisburg; then on the Reading 90 miles to Allentown; thence to Easton and 75 miles over the Jersey Central to New York?—A. Yes, sir; but I do not understand that at that time the shipments were in that direction. You will remember that the oil region originally was less than 400 miles from Philadelphia, while to New York the distance was 521 miles.

Q. Yes; but all the oil which went to New York went over those four roads?—A. Yes, sir.

Q. Now, then, in prorating among those four railroads to show what amount each should get per mile, were not all these drawbacks and terminal charges taken out first, according to Mr. Cassatt's testimony?—A. They may have been; yes, sir.

Q. State whether or not the upper part of this statement, which includes the lighterage and terminal charges in New York, does not show, according to the accounts rendered in that testimony, the total amount that was paid out before you reached the net amount that was prorated among the different railroads which united in carrying it?—A. I so understood.

Q. Do any of those terminal charges enter into, or are they included in any manner in your average rate of 55 cents?—A. No, sir.

Q. And the sum of \$10,000,000 in these seventeen months is exclusively made up of rebates paid to the Standard Oil Company, and does not include the terminal or lighterage charges, which amounted to 16 cents and upwards?—A. No, sir; it does not.

Mr. BUCHANAN. I was not present during all your testimony, and I do not know whether you have testified or not as to whether any rebates are now allowed to the Standard Oil Company by the Pennsylvania Railroad Company, to your knowledge?

The WITNESS. I believe there are; that is all I can say. I have a suit against the Pennsylvania Railroad for \$300,000, which I am prosecuting for rebates, and which I expect to win.

Q. And in that suit you allege that these rebates were given when?—A. Right along; all the while.

Q. But in that suit I presume you have filed a written complaint. In that complaint do you remember what times are alleged when these rates are given?—A. From the commencement of our business in 1881 up to the bringing of our suit, which was in November, 1887.

Q. I asked whether you had any knowledge of your own, any per-

sonal knowledge—I will put it that way—of any rebates given at the present time by the Pennsylvania Railroad?—A. Not at the present time; I have personal knowledge of their paying rebates up to 1885. It was so proved in our case.

Q. That suit was entered in what court?—A. In the McKean County court.

Q. That was a State court of Pennsylvania?—A. Yes, sir.

Q. What is the name of your attorney?—A. Senator J. W. Lee, who is present in this room, Mr. Sherman, and Mr. Mortimer F. Elliott, who is a good Democrat.

Q. What, if any, consulting counsel have you?—A. We have none.

Q. Is testimony being taken in that suit?—A. Yes, sir.

Q. At the present time?—A. We begin in Philadelphia May —, first. We have been taking testimony there since.

Mr. CROUSE [referring to Exhibit C]. In reference to this 55 cents average, just explain it to us; for instance, the rebate, as stated to-day, in one instance is $51\frac{1}{2}$ cents, and in the other instance, perhaps, $74\frac{1}{2}$ cents; and in making up your estimate down below, just explain how you got at the average?—A. By the addition of the rebates together we got the general average.

Q. But the rebates themselves on refined in the first table differ from those in the other table?—A. The amounts I got from the testimony.

Q. Cast your eye on the paper, please. There is a rebate of $64\frac{1}{2}$ cents and a rebate, if you call it a rebate, of 10 cents; that would be $74\frac{1}{2}$ cents on that calculation. Drop to the next one and you find rebates of 14, 15, and $22\frac{1}{2}$ cents, which, added together, make a rebate of $51\frac{1}{2}$ cents, if I am not mistaken. In one case it is $64\frac{1}{2}$ cents and in the other $51\frac{1}{2}$ cents. My question is, How did you get at the average of 55 cents?—A. By adding those three together.

Q. What three?—A. The $90\frac{1}{2}$ cents rebate and the $67\frac{1}{2}$ cents and the 65 cents, and after deducting the lighterage and terminal charges I think the average is 55 cents. I think that is the way I obtained the average of the drawbacks.

Q. That is to say, you added the $64\frac{1}{2}$ cents, and leaving out the excluded matter—A. $64\frac{1}{2}$ and 10.

Q. There is a question whether that 10 belongs there or not?—A. You are right, I do not think it does belong there.

Q. Taking the $64\frac{1}{2}$ and the $51\frac{1}{2}$ in the other instance—

Mr. GOWEN. You added the three together and divided by three?

The WITNESS. I think that is the way I obtained the general average.

Mr. CROUSE. That would not be correct. If nine-tenths of the oil was shipped at the first rate the average would be more than 55. The calculation would not be correct unless the amounts were alike.

Mr. GOWEN. You have here one drawback of $74\frac{1}{2}$ cents, another drawback of $51\frac{1}{2}$, another drawback of 79 cents; now, if you add those three together and divide by 3 it produces 55, and that can only be correct upon the assumption that there was exactly the same amount shipped at each rate.

The WITNESS. That is true.

Mr. CROUSE. It would be necessary that the same amount should have been shipped at the $64\frac{1}{2}$ cent rebate, at the $51\frac{1}{2}$ cent rebate, etc.

The WITNESS. Yes, sir; but the probabilities are that the shipments on the last two were greater than on the other two.

Mr. CROUSE. Well, that would be against your calculation.

The WITNESS. No; it would be in our favor.

Mr. CROUSE. But if there was more at one rate than at another, your calculation would not be correct?

The WITNESS. The amounts shipped at each rate can be ascertained exactly.

Mr. CROUSE. This statement being submitted as evidence, it ought to be somewhat accurate in itself.

Mr. GOWEN. If you can give the exact number of barrels of refined which were shipped and the exact shipments of crude from Bradford and the lower region, you can then find out exactly what the percentage would be, could you not?

The WITNESS. Yes, sir.

Mr. BUCHANAN. Is the committee to understand that the statement you produced is not the result of accurate computation, but is made up of assumption?

The WITNESS. No, sir; I consider it as accurate and true.

Mr. BUCHANAN. From what source was it prepared?

The WITNESS. From this book [laying his hand on the report of the testimony taken before the master appointed by the supreme court of Pennsylvania].

Mr. BUCHANAN. And compiled correctly and accurately from that testimony?

The WITNESS. Yes, sir.

Mr. BUCHANAN. You have spoken of the payment of rebates; by whom were they paid and to whom?

The WITNESS. By the several railroads to the Standard Oil Trust.

Mr. BUCHANAN. Does it appear from that testimony also to be the case?

The WITNESS. The testimony shows it; yes, sir; and shows who received the rebates.

Mr. BUCHANAN. Have you any knowledge outside of that testimony as to the payments of these rebates?

The WITNESS. No, sir.

By Mr. BRECKINRIDGE:

Q. In one of your statements you speak of a number of your refiners who have been squeezed out; a number as having been wrecked, and of a number as having been bought up by the Standard Oil Company. What is meant by being squeezed out, as distinguished from the other expressions?—A. Take my own example. I claim I was squeezed out. I refused to have any relations or associations with this combination and the payment of these extreme drawbacks; and at the low price of refined oil I was unable to compete with them, because the drawback alone made a sufficient profit for them.

Q. As I understand it, then, those who were squeezed out sold out or were wrecked?—A. Yes, sir; those who were squeezed out sold out.

Q. So that you might have used the expression—were compelled to sell out?—A. Yes, sir.

Q. What inducement was there for the railroad company to give rebates and special favors to one of their shippers instead of to all?—A. Well, now, I could go into a great history. I do not know that I would want to sit here as a witness and say that I knew that men had made \$5,000,000 and \$6,000,000 a year or even \$500,000 a year and name the individuals. If I were to go into a history of this thing I could give you my opinion.

Q. If a railroad is doing a legitimate public carrying business and doing its duty by its stockholders, it is rather difficult for an outsider

to see how they can have any favoritism among people who give them freight.—A. I assert that the Pennsylvania Railroad has never done a fair business in the transportation of oil; and I state here as a man who can prove it——

Q. Have you reason to believe that officials of that road were interested in the business of the Standard Oil Company?—A. I believe they were interested in the profits derived from these rebates.

Q. Of course an explanation is perfectly logical upon the ground of bribery and collusion?—A. They were sued for conspiracy, and if they had had their just deserts would have been all in the State prison.

Q. Which conspiracy, of course, would not only have been a wrong against the public, but against their own stockholders.—A. I think there is a gentleman here [pointing to Mr. Gowen] who can tell you something about——

Mr. GOWEN. But I am counsel, and I do not want to go on the witness stand in a case in which I am a lawyer.

The WITNESS. I could express myself just as emphatically as anybody else and as truthfully as anybody else. I believe the money has been distributed amongst a gang of people in Pennsylvania, who have made their millions of dollars, and the industries have been reduced to ruin and the people connected with it bankrupted.

By Mr. BRECKINRIDGE:

Q. That would involve a betrayal on the part of the official both of the holders of the securities of the railroad and of the interest of the shipping public?—A. Yes, sir.

Q. I did not know but there might be some special reasons in connection with the oil trade in Pennsylvania that might make it to the interest of a railroad as a public carrier to discriminate in favor of some special shipper. I could see no such reasons myself, hence I ask the question?—A. I think that is quite right, sir. They have done it. I think a small discrimination anybody might live under. I, as an individual, taking care of my own interest, doing my own work, could stand reasonable discrimination. I commenced in the business before the Standard Oil Company did, although I am a young man yet—I commenced a long while before they did, but the result is that many of them who were my associates—there are men connected with it to-day who have been my personal partners. They may have been smarter than I, but they are extremely wealthy, and I am not a pauper by any means.

Q. You speak of a reasonable discrimination?—A. I believe wealth has been derived not from legitimate returns of the business, but from discriminations and drawbacks given by the railroads.

Q. And divided among them as individuals?—A. Yes, sir.

Q. You speak of reasonable discrimination. Do you mean small in amount or just in principle?—A. I do not think any discrimination is just.

Q. I understand you to mean then that you could live under a moderate hardship and not under a very great hardship?—A. We could have done so; there is no doubt about that.

Mr. GOWEN. The line of examination that you have taken up, Mr. Breckinridge, was taken up yesterday during your absence with another witness; and I will now ask Mr. Emery another question in connection with that.

By Mr. GOWEN:

Q. Has not the oil traffic of Pennsylvania reached a magnitude that has amounted to 30,000,000 barrels a year? Please refresh your recol-

lection by these tables [handing tables to witness] and state whether it has not reached at one time as much as 35,000,000 barrels?—A. Yes, sir; in 1882, and upwards.

Q. What were the highest shipments?—A. 26,627,000.

Q. State whether the shipments within the last few years have been increasing and production decreasing?—A. Yes, sir.

Q. So that the stock of oil that is on hand is greatly diminishing in consequence of the shipments now being larger in proportion to the production than they used to be?—A. Yes, sir.

Q. State whether, in your opinion, as an oil producer and refiner, and from your long knowledge of the business, you do not believe that if it was the object of the railroad company to consolidate this business into any one hand they could have done it by a much less rebate than an average of 55 cents a barrel?—A. Yes, sir; they could.

Q. Do not you think that 25 cents a barrel would have been a discrimination against which it would have been almost impossible for anybody to compete who did not get it?—A. I could not overcome 25 cents myself, and I believe I know my business.

Q. Do you think anybody could?—A. No; I do not think they could.

Q. Do not you think that 25 cents, even if the object of the railroad companies had been to throw the business into one hand and thereby securing for themselves, do not you think that that amount would have been sufficient for the purpose?—A. Certainly.

Q. Can you conceive of any reason why, if that amount was sufficient, a drawback of as high as 55 cents was allowed?—A. No, sir; I can not.

Q. You can not account for it?—A. No, sir.

Q. Would it not follow that the unnecessary amount of drawback was a gross injury to the share-holders of the company whose treasury was depleted by it?—A. It certainly was, as I have stated over and over again.

Q. State now over what length of time, from your own knowledge, you believe this system of unjust drawbacks has extended.—A. From 1872 to the present time. I believe it is going on still.

Q. And within that time probably two or three hundreds of millions of barrels have been produced?—A. Fully that.

Q. That is, sixteen years at an average of 25,000,000 a year?—A. Yes, sir.

Q. Have you any doubt in your mind that, taking the Standard Oil Company and their affiliated interests in contradistinction to the independent refiners or shippers who were to receive no rebate, that within this time there has been paid to the Standard Oil Company at least \$100,000,000 in rebate?—A. I do believe it; yes, sir.

Q. Can you conceive any valid business reason why that amount of money should have been taken out of the treasuries of railroad companies and given to a combination of individuals?—A. There is none; no reason.

Q. Do you believe that if the policy of these railroad companies had been to treat everybody alike it would have been possible for all this business to have accumulated in one hand?—A. No, sir.

Q. State whether or not the result of its accumulation in one hand has not been to make that one party so powerful that they can and have practically taken the business altogether away from the railroads?—A. They have, sir; nearly so.

Q. By the construction of pipe lines?—A. Yes, sir.

Q. Can you state further whether, if all the people had been treated alike, there would have been any difficulty on the part of refiners and

producers on the mere question of rate as to what it was, provided everybody had been treated alike?—A. I do not get your question.

Q. Would you not have agreed, and would not the trade have agreed, to pay as high as \$1 a barrel if all had been treated alike?—A. Yes, sir; or even \$5.

Q. That would have prevented competition with the European market?—A. Yes, sir; I was only referring to the domestic trade.

Q. Do you believe that a rate of as high as \$1 per barrel would have interfered with the foreign competition in oil?—A. No, sir; not up to three or four years ago. Of course the Russian field has come in as a competitor and is——

Q. That is within the last four years?—A. Yes, sir; in 1880 I was there and the business was comparatively small. It has grown since that time.

Q. Do you not think that if everybody had been treated alike and this oil trade treated exactly as other trades in the country were treated, that to-day the railroad companies carrying the oil would be in receipt of at least fifteen or twenty millions more than they are now getting?—A. That is true.

Q. Therefore the policy they have pursued in giving these large drawbacks has not only injured the individual refiners who did not participate in it but the railroads themselves, has it not?—A. Yes, sir; they have lost the business. That was the object of the Pennsylvania Railroad in giving me advantages in 1879.

Q. It was stated here the other day by the counsel for the Pennsylvania Railroad that I was in this case as counsel, for the purpose of finding out facts to aid me in a case against the railroad company in which I was employed. Have I ever been, or am I now, connected with you as your counsel?—A. No, sir.

Q. Have you ever spoken to me on this subject?—A. I have not.

Q. How often have I seen you in the last five years?—A. Very few times.

Q. Once or twice?—A. Not more, I think.

Q. On either of those occasions was any reference made between us to any suit you had against the Pennsylvania Railroad?—A. No, sir; I never had a suit against them until a year ago.

By Mr. CROUSE:

Q. Some one asked you not long ago about these rebates, over what period they extended, and I understood you to say they continued up to and including 1885?—A. They have paid rebates up to that time.

Q. I did understand you correctly, then, that they paid rebates going back over a number of years up to and including 1885?—A. Yes, sir. I do not say this rebate (referring to Exhibit C).

Q. But a rebate?—A. Yes, sir.

Q. In this last part of the examination, which grew rather animated, you carried it up to the present time?—A. I said I believed it extended to the present time.

Q. That is what I want to know about.—A. We have commenced suit against the railroad and claim that they have paid rebates up to 1885; and I expect to prove that they have paid rebates up to the time of the suit, November, 1887.

Q. I am trying to cover this latter period because it opens up a new field of inquiry.—A. I do not want to give my hand away just here.

Mr. GOWEN. You mean you do not want to expose your case?

The WITNESS. No, sir; because it might be taken advantage of. It

is very easy to get men away when they are wanted to go on the witness stand.

By Mr. GOWEN :

Q. You have strong reasons for believing what is going on at the present time, but whatever reasons you have you do not care to disclose ?—A. That is it. I went out of business in the latter part of November, and I believe when I went out of business rebates were being paid. I expect to prove it and I believe I can prove it. I would answer your question direct—it would give me pleasure to do so ; but as I said before, I do not want to give my hand away now. When this suit is over I will be glad to tell you all I know.

By Mr. BUCHANAN :

Q. Mr. Emery, I think you stated, in response to questions by Mr. Crouse, that you had proved in this case that rebates were paid up to January, 1885 ?—A. Yes, sir.

Q. Paid to whom ?—A. They were paid to Mr. Brundred, of Oil City, Mr. Whitridge, of Titusville, Mr. Wood, of Titusville, and Mr. Schwartz, of Titusville, and two or three other people that I know of.

By Mr. GOWEN :

Q. State whether or not those rebates you have spoken of as being paid to Mr. Brundred, Mr. Whitridge, Mr. Wood, and Mr. Schwartz were not paid to them in consequence of a demand made by them upon the Pennsylvania Railroad that they were entitled to them because the Pennsylvania Railroad had given rebates to others ?—A. Yes, sir ; that is all they had to do, make their demand.

Q. They were not paid to them in the current course of their business ?—A. No, sir.

Q. But in consequence of a demand made by them upon the Pennsylvania Railroad that they were entitled to receive them, because they discovered that the Pennsylvania Railroad had been paying these rebates to others ?—A. They made no bones about it ; they made their demand and received their money.

By Mr. BUCHANAN :

Q. Did you make a similar demand ?—A. Yes, sir.

Q. Was it paid ?—A. No.

Q. Hence the suit ?—A. Yes.

By the CHAIRMAN :

Q. I understand you to say that, in reference to the claims you make and the facts you expect to prove subsequent to 1885, you desire not to be interrogated, because you wish to reserve that information to be used in a suit pending in Pennsylvania ?—A. Yes, sir.

Mr. BRECKINRIDGE. Mr. Chairman, so far as our purposes are concerned, it makes very little difference whether these transactions occurred in 1885 or 1887. The question is one of policy and the possibility of a common policy ever obtaining in interstate commerce, and these devices are all comparatively modern. Having established it once it is, just for our purposes, as if we had established it one hundred times. I therefore do not consider it pertinent at all to our line of inquiry to determine how recently this policy has obtained. I will ask one or two more questions.

By Mr. BRECKINRIDGE :

Q. Had the Standard Oil Company, when this system of consoli-

tion and combination and of favoritism began, any marked natural advantages over their competitors in the oil trade?—A. No, sir.

Q. Had they any marked advantages in the beginning in the way of capital?—A. None whatever. I might say right there that the production at the time of the inception of this Standard Oil Company was about 16,000 barrels a day, and under this system of drawbacks they became possessors of an income of about \$1 a barrel per day, which would give them an income equal to the amount of production.

Q. Do you know how the stock or securities of these railroads who have been parties in this combination are held; whether they are held principally by the individuals who are the officials of the railroads, or whether they are distributed broadly among the public?—A. You mean the stocks of the railroads?

Q. Yes, sir.—A. They are held by the general public, I suppose.

Q. These gentlemen, then, in going into this collusion and dividing this secret fund, if they were robbing anybody were not robbing themselves, but were robbing the general stockholders?—A. That is right, sir.

By Mr. GOWEN:

Q. The stock of the Pennsylvania Railroad to-day is about one hundred million, is it not?—A. I understand so; I have not read their report recently.

Q. How much of that hundred millions is owned, do you believe, by officers of the company?

Mr. BUCHANAN. Mr. Chairman, Mr. Breckinridge spoke of the potentialities of the case which have been developed, and unless we stop there we will not get through. There are a number of trusts to be investigated to succeed this.

Mr. BRECKINRIDGE. This, Mr. Chairman, I will submit, is rather an interesting phase, and its pertinency will, perhaps, be brought out by this question which I shall ask Mr. Emery.

The CHAIRMAN. I think we shall have to dispose of the objection first.

Mr. BUCHANAN. I did not object to this particular question, but to the line of inquiry.

The CHAIRMAN. The objection, as it strikes me, is to some other portion of this examination. I do not see where we are going to end if we are going to deal in general suppositions. I think we had better confine the witness to facts he knows in regard to these matters.

Mr. BRECKINRIDGE. I will submit, Mr. Chairman, that matters of this kind would not be pertinent to our line of inquiry unless injury to citizens occurred upon transactions tending to consolidation and favoritism, and based upon transactions which were in the nature of interstate commerce. I understand that it is not disputed that this oil—indeed the statement indicates it—which has been handled, and upon which rebates are said to have been paid, is oil which was hauled from one State largely to another State, and the whole evidence and line of inquiry is in the nature of proof of favoritism. It is relating to the formative period of a great pool and trust based directly upon discrimination, upon transactions that are strictly national and not State in their character. So far as protracting the line of inquiry is concerned, I have reached about the end of my questions at this point.

Mr. GOWEN. I do think, gentlemen, upon the subject of public policy, this is as important a question as can come before any committee of Congress. It is interstate commerce; not only that, but it is foreign commerce. Eight hundred and ninety-five millions of dollars' worth of

oil have been exported from this country since the commencement of the oil trade. Two-thirds of the oil produced in this country goes to foreign countries. Now, what is the condition of affairs we are looking at, and which I, as your counsel, have been endeavoring to prove? It is this, that a few officers of a great railroad company that at one time had 49 per cent. allotted to it as its share of the business as against 21 per cent. to the New York Central, 21 per cent. to the Erie Railway, and 11 per cent. to the Baltimore & Ohio—that the officers of that railroad company, as was proved in that document referred to yesterday, by simply writing a letter to one gentleman, making a contract, have paid drawbacks which, according to the testimony, and which I believe to be a moderate estimate, have amounted to \$100,000,000.

Now, no man can show a single business reason why such a drawback should have been made. It is alleged, and I must do these railroad companies the justice to say that the Pennsylvania Railroad takes the position that when a rival railroad in New York establishes the rate at which oil must be carried, that they must carry it at that rate or lose all the business. That is true. But if they must carry it at that rate, there is no reason whatever why they should not carry it at that rate for everybody. And where they have offered an argument that it is necessary to carry it at that rate because the New York Central carries it at that rate, they have only carried it at that rate for one person, who when he commenced business did not own one-tenth of 1 per cent. of this business, and has kept carrying it at that rate for him while they charged the higher rate for everybody else, during a period of ten or fifteen years, during which he gets from them a rebate of over 85 per cent., rebates which have amounted in the whole country to hundreds of millions of dollars, it then becomes, as a matter of public policy, highly important to examine and see why that was done; not only to legislate in such manner as will prevent a recurrence of it for the future, but, if it is possible, to do something to give redress for the past to those who are injured.

Now, I think Mr. Breckinridge's question struck at the very vital part of all these examinations. It is known that the Pennsylvania Railroad Company is the largest company in the United States. It certainly is here in evidence that millions and millions of dollars have been taken away from the Treasury by an unnecessary rebate, the result of which has been to build up great fortunes in the hands of a few possessors and to make the many, who are equally responsible and equally worthy, poor.

Now, Congress, irrespective of all questions of interstate commerce, irrespective of all questions of State rights—Congress can give to the courts of the United States, in almost every case that arises out of interstate commerce, a jurisdiction, or rather can authorize them to apply a new remedy in consequence of a jurisdiction which they now have by reason of the fact that the plaintiff or the defendant live in different States.

Mr. BRECKINRIDGE. Exactly.

Mr. GOWEN. And when you come to deal with this great question of public policy as between the managers of the railroad and the stockholders who are scattered all over the United States and Europe, Congress can give to any stockholder of a corporation, who has entrance into a United States court in consequence of his citizenship, a remedy for the past which will be just as efficacious as the remedy which I hope will result in the future as the result of this investigation. Congress could to-day give to the courts of the United States what they do not

now possess and never have had, except in one or two isolated cases arising out of statute—Congress can give to the district and circuit courts of the United States original jurisdiction in writs of mandamus, which, if they were authorized to issue, would effectually prevent the future recurrence of any unjust discrimination, by compelling them under the penalties of that writ to move freight for one person at the same rate as they move it for another.

And especially with reference to the past in a case of this kind, where the discrimination shown to exist has been a discrimination only in favor of one person, so that in the absence of statute there is grave doubt of whether the people who did not have this discrimination have any remedy whatever sounding in damages, Congress can give to every non-resident holder of the stock of a railroad company in this country or to every holder of stock in a railroad company who resides in a different State from that in which the parent corporation is located, and who in consequence of residence and citizenship has an entrance into the United States courts—Congress can give to such injured stockholder the right to come before that court and ask for the appointment of some judicial officer, whom we may call a receiver, not to take possession of the company at all, or to interfere with its business, but a receiver of the stolen moneys that have been taken out of its treasury by these unjust discriminations; and on the complaint of such stockholder the courts can appoint such receiver and direct that receiver to bring suit for the recovery of those moneys and divide them among the people who have been injured by this misapplication.

Therefore, there are two distinct remedies, one for the past and one for the future, which are not limited by the question of interstate commerce or interstate rates, but over which by virtue of citizenship the courts of the United States have jurisdiction, and all they want is a remedy. Congress can give that remedy; and when it is given depend upon it it will be the most efficacious one that ever was given for an evil of this magnitude in the world.

Mr. BUCHANAN. It will be observed, Mr. Chairman, that the objection, if it can be called an objection, was made rather in the way of a suggestion—was not to limit inquiry as to the fact of rebates having been allowed and paid. The question that was put was asked as to the witness's opinion—not knowledge, but opinion—as to the distribution of the capital stock of the Pennsylvania Railroad, as to whether its officers owned any considerable portion or not, in his judgment, and without laying any foundation for the inquiry by showing that the witness had any opportunity whatever of becoming possessed of any special information on this subject.

The CHAIRMAN. If there is not any objection upon the part of any members of the committee, I do not understand that the counsel for the committee insists upon taking the supposition of this witness upon that subject and the question may be considered as withdrawn.

Mr. BRECKINRIDGE. All I ask—

The CHAIRMAN. The question objected to was asked by Mr. Gowen.

Mr. BRECKINRIDGE. I thought the objection referred to a question I asked. Let the stenographer turn back and read—

The CHAIRMAN. I have already had the question read to me and it was a question put by Mr. Gowen.

Mr. BRECKINRIDGE. Very well, sir. There is one other question that I will ask Mr. Emery that is suggested to me by a remark made by Mr. Gowen. The railroad company, I understand, alleged that other railroads were competing for this oil trade, and that they—the Penn-

sylvania system of railroads—had to carry that oil at a reduced rate or else lose the trade. Now, the question occurs as to whether or not this oil field was reached with equal facilities for purposes of transportation by the two lines of railroads. What other line of railroad could underbid the Pennsylvania line of railroad in carrying the Standard Company's oil?

The WITNESS. There was no road, so far as distance was concerned.

Q. It was really the only road that reached that field?—A. From the field to Philadelphia is less than 400 miles, and on this system of the Pennsylvania road was produced all of the oil in the oil region.

Q. What other railroad reached any other oil field?—A. There was no other oil field.

Mr. GOWEN. Except a little one in New York?

The WITNESS. Not at that time; that is since 1875.

By Mr. BRECKINRIDGE:

Q. Therefore I do not see that there was any ground from your knowledge of the facts for the railroad discriminating in favor of this particular concern upon the score of competition of other railroads in this business?—A. I will explain that if you will allow me.

Q. Go on.—A. The other railroads did participate in the carrying of this oil, but the contract that was made with the Standard Oil Company or the South Improvement Company was exclusively with the Pennsylvania Railroad. They agreed to transport all the oil over the Pennsylvania system.

Q. To give that system all the oil?—A. All of it.

Q. And the railroad to take it all?—A. Yes, sir.

Q. At a given figure?—A. Yes, sir; all of it. Then the other railroads came in and participated in the contract afterwards.

By Mr. GOWEN:

Q. Was it not at that time and has it not been since agreed to by all these railroads who had the power to compete for this oil, that the business was to be divided among them in a fixed proportion?—A. Certainly.

Q. Therefore if the business was to be divided amongst them or pooled, as they called it, so that each got his fixed proportion, what advantage would it have been to any one of these roads to reduce the rate of transportation when by so doing it could only have received its fixed proportion—would there have been any?—A. No, sir.

By Mr. BRECKINRIDGE:

Q. Did you refer to the entire oil business?—A. Yes, sir.

Q. So that I am to understand that they divided the whole oil-carrying trade, but rebated to only one concern?—A. Yes, sir; on all the oil I shipped the rebate was paid to that company.

Q. Do you mean to say that a rebate was paid on your oil?—A. Yes, sir.

Q. And not to you?—A. No, sir.

Q. Why did they pay that on your oil?—A. That was part of the contract.

The CHAIRMAN. Those things are all matters of written contract, Mr. Breckinridge.

Mr. GOWEN. That contract provided that this rebate was to be given to the Standard Oil Company not only upon what they shipped but upon every barrel of oil that was shipped by anybody.

Mr. BRECKINRIDGE. I will observe, Mr. Chairman, in conclusion, as

there is some little dispute about inquiries of this character, that so far as the suits and grievances of individuals are concerned I can see that they have but very little to do with this investigation. It is neither to stimulate nor to injure our line of inquiry to bring out that certain gentlemen have got suits. That is not to bring out anything that is at all relevant to the necessity that lies upon us of developing whatever of public policy there is in that or in other suits or even cases that have been brought to trial. But if this committee is to cover broadly and well the question of combinations and pools upon the basis of interests of citizens in different States—interstate and foreign commerce—it needs to go into the matter of contracts, transportation, taxation, and almost every conceivable question that may enter into the commerce between them, provided it goes across State lines or across the foreign border.

Witness excused.

The committee then went into executive session, after which it adjourned until Friday, April 27, at 11 o'clock a. m.

APRIL 27, 1888.

Committee met at 11 o'clock a. m. Present: The chairman, Mr. Smith, Mr. Buchanan, Mr. Grimes, Mr. Breckinridge, Mr. Crouse, and Mr. Bunnell.

TESTIMONY OF JOSEPH D. POTTS.

JOSEPH D. POTTS, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. In Philadelphia.

Q. What is your age?—A. Fifty-eight years.

Q. What is your business?—A. My profession is that of civil engineer, and I have been engaged for a long while in transportation.

Q. Over what length of period have you been engaged in the transportation business or connected with it?—A. Since 1855.

Q. Will you kindly mention the various branches of transportation in which you have been engaged during that time?—A. I was at one time superintendent of the western division of the Pennsylvania road. I became general manager of the Philadelphia and Erie road after it was leased by them. I then became president of the Empire Transportation Company, which was a transportation line furnishing its own cars and running over a great many miles of railroad, some 30,000 miles. I also became president of the Erie and Western Transportation Company, which was and is a large owner of steamers on the lakes; and I have been a director ever since it began of the International Navigation Company, the owner of the Red Star Line and the Inman and International Line of ocean steamers.

Q. Then you have been engaged in almost all departments of inland and transcontinental transportation?—A. Yes, sir.

Q. And with reference to navigation both upon the ocean and upon the lakes?—Yes, sir.

Q. You were president, you say, of the Empire Transportation Company. Will you kindly inform the committee what that line was and what its functions were?—A. It was a corporation which purchased and owned cars and made contracts with various lines of railroad which together constituted a large through route with ramifications over which it ran

sylvania system of railroads—had to carry that oil at a reduced rate or else lose the trade. Now, the question occurs as to whether or not this oil field was reached with equal facilities for purposes of transportation by the two lines of railroads. What other line of railroad could underbid the Pennsylvania line of railroad in carrying the Standard Company's oil?

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Q. Over what length of period have you been engaged in the transportation business or connected with it?—A. Since 1855.

Q. Will you kindly mention the various branches of transportation in which you have been engaged during that time?—A. I was at one time superintendent of the western division of the Pennsylvania road. I became general manager of the Philadelphia and Erie road after it was leased by them. I then became president of the Empire Transportation Company, which was a transportation line furnishing its own cars and running over a great many miles of railroad, some 30,000 miles. I also became president of the Erie and Western Transportation Company, which was and is a large owner of steamers on the lakes; and I have been a director ever since it began of the International Navigation Company, the owner of the Red Star Line and the Inman and International Line of ocean steamers.

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Q. You were president, you say, of the Empire Transportation Company. Will you kindly inform the committee what that line was and what its functions were?—A. It was a corporation which purchased and owned cars and made contracts with various lines of railroad which together constituted a large through route with ramifications over which it ran

the cars and over which it carried business which it solicited from those who controlled it—shippers of goods.

Q. Those cars were transported or moved, were they not, by the motive power belonging to the various railroads over which your line of cars were transported?—A. Yes, sir.

Q. State whether or not your company received either a fixed percentage or a fixed sum of the gross rate of transportation due to your ownership of cars, selecting a business and furnishing terminal facilities, and whether the railroad company received its fixed proportion or fixed rate of the joint price due to their furnishing road-bed and motive power?—A. The contracts that we had differed some in detail and in methods of compensating us, but the fundamental ideas of all of our contracts was the same, that we should be paid a car service such as was usual and current for the use of our cars, keeping our cars in repair at our own expense; that we should be paid a commission for soliciting business at all the large commercial centers, which commission was supposed as nearly as it could be reached, to represent about what it would cost the railroads under those circumstances to do the same service, and we were also allowed a terminal charge where we furnished terminal facilities, which we did at the leading commercial centers, such as New York. At that place we furnished our own piers which were rented, built the warehouses, and did the handling of the goods, loading and unloading. For those services we were allowed what the railroad estimated it would cost them to do the work and furnish those facilities. Sometimes it was in the nature of an arbitrary allowance per ton, but more usually, particularly toward the close, of a percentage upon the rate.

Q. State whether during any period of the existence of the Empire Transportation Company as a transporting line upon the Pennsylvania Railroad and affiliated lines, it furnished the cars for the transportation of crude petroleum to the sea-board?—A. It furnished a very few in the early part of our connection with it. The manner of exporting crude petroleum changed. Instead of being barreled and shipped in cars as ordinary freight was, cars that held the petroleum in bulk were provided. It never furnished any of those; we furnished the bulk cars.

Q. You mean by "it" the railroad?—A. Yes, sir; none of the railroad companies furnished bulk cars. We absorbed the whole business.

Q. I presume practically after the trade had properly started all the crude oil went in bulk in tank cars from the oil well to the sea-board?—A. Yes, sir.

Q. And when that was the system of transportation your company was the only company that furnished cars for that service to the Pennsylvania Railroad Company?—A. Yes, sir.

Q. At that time you were the exclusive avenue of transportation from the wells to tide-water?—A. Over the Pennsylvania Road and its connections.

Q. Over what period of time did such control by you of the transportation extend?—A. It ended in October, 1877. I could not give you the precise date when crude oil ceased to be transported in barrel and was wholly transported in bulk, but I should think perhaps in about 1870. We began to transport oil in 1865, and it was a gradual transition process of barrel and bulk.

Q. Your absolute control over it ceased in 1877?—A. Yes, sir.

Q. How long immediately preceding that period had you the absolute control; had it been two or three years?—A. Oh, yes; I should think six or seven years.

Q. Now, did you during that time transport oil that was refined by the Standard Oil Company, as well as for others?—A. We transported oil for anybody that offered it to us, and frequently had some of theirs to transport.

Q. State whether or not at that time you treated all persons alike who came within the same category as to charges?—A. The charges were always fixed by the railroad company. We never fixed any. In the distribution of cars we always sought to treat everybody as nearly equitable as we could.

Q. Out of the share of the gross charge for moving petroleum which came finally into the treasury of your company, as representing the service that you did as a common carrier, did you treat the trade alike?—A. Absolutely.

Q. Do you know whether there was any complaint of favoritism on the part of your line by the producers of oil?—A. I do not think any serious complaint. Occasionally when there was a very great demand for cars, and everybody did not get what they wanted, naturally each one thought he was discriminated against, and the only way we found by which it could be done equitably was to take the general business of each party, and load the cars in proportion to what the general business had been, and not in proportion to the condition of demand.

Q. State whether, during that period and by virtue of your position as president of this transportation company, you made efforts, and if so, to what extent, to secure a large clientage among the producers of oil to furnish transportation to the lines of the Pennsylvania Railroad.—A. We always worked with reference to getting the largest number of shipments we could, believing that to be the best safeguard to our trade.

Q. There was a gentleman named Campbell, who has been examined before this committee, and whose testimony taken on another occasion has also been read, testified that you, or some gentleman acting for you, had prepared a paper for the producers to sign pledging their tonnage to your lines; do you remember that?—A. Yes, sir.

Q. Now, why did your control over this trade cease in 1877, and how did it cease?—A. We sold out our entire equipment and plant.

Q. To whom?—A. Our contract with the Pennsylvania Road gave to them the option, at any time they saw proper, upon reasonable notice, of buying our entire plant; they exercised that option.

Q. They availed themselves of that option?—A. Yes, sir.

Q. Was that at your request or desire?—A. No, sir.

Q. At whose request or desire?—A. It was the Pennsylvania Railroad through their officials.

Q. Do you know why they did it?—A. No; I do not, except that they expressed that wish.

Q. Do you not know that it was at the suggestion or by the connivance of the Standard Oil Company?—A. No; I do not know that.

Q. Did you not, while you were engaged as the Empire Line in transporting oil, become also refiners of oil and secure refining facilities for the purpose of utilizing the oil you transported?—A. Not for that purpose.

Q. For what purpose?—A. For trade purposes, for the purpose of securing ourselves against the loss of transportation. We reached the conclusion that there were three great divisions in the petroleum business—the production, the carriage of it, and the preparation of it for market. If any one party controlled absolutely any one of those

three divisions, they practically would have a very fair show of controlling the others. We were particularly solicitous about the transportation, and we were a little afraid that the refiners might combine in a single institution, and some of them expressed a strong desire to associate themselves permanently with us. We therefore suggested to the Pennsylvania Road that we should do what we did not wish to do—associate ourselves. That is, our business was transportation and not anything else; but in order that we might reserve a nucleus of our refining capacity to our lines, we suggested we should become interested in one or more refineries, and we became interested in two, one in Philadelphia and one in New York. It was incidental merely to our transportation.

Q. To what extent did your refining capacity reach up to the period at which your contract with the Pennsylvania Railroad was terminated?—A. The extreme limit was 4,000 barrels a day only.

Q. In 1878 the capacity of the oil region had reached some 15,000,000 of barrels of oil, had it not?—A. Of refining capacity?

Q. No, sir; capacity of production.—A. I could not tell you without referring to statistics. I do not carry them in my mind. I think when we sold out in 1877, the production was in the neighborhood of 30,000 barrels a day. If you have the statistics they will be much more reliable than my recollection.

Q. What became of your refineries when you sold out your transportation line?—A. We sold out everything to the Pennsylvania Road. They had the same stipulation about our refineries.

Q. Do you mean that you sold your refineries to the Pennsylvania Road?—A. We conveyed them to whomsoever they directed.

Q. To whom did they direct you to convey them?—A. I do not recollect to what particular corporation, but it was the corporation designated by the Standard Oil Company.

Q. That is, you conveyed them to the interest controlled by the Standard Oil Company?—A. Yes, sir.

Q. Who paid you for that?—A. The Standard Oil Company.

Q. What was the amount of that purchase?—A. I can not tell you. I think they paid us for everything they bought, something over \$3,000,000.

Q. The money to pay for the refineries was provided by the Standard Oil Company and paid to your company?—A. It was paid to us; but I don't know who provided it.

Q. It was paid by them through their instrument?—A. Yes, sir.

Q. When you sold the cars what did you receive for them?—A. Car trusts for all of them.

Q. State whether it was not agreed at that time, or immediately afterwards brought into the agreement, that the Standard Oil Company was to provide the money to purchase some of these car-trust certificates?—A. The oil-car trusts.

Q. How much did they amount to?—A. I think \$900,000; but it was included in the other sum.

Q. The Standard Company therefore provided the money to buy from you the car-trust certificates that represented your ownership in the oil-tank cars which you had parted to the Pennsylvania Company?—A. Yes, sir.

Q. The Standard Oil Company also became the owners, or a company designated by them, of your refining plants?—A. Yes, sir.

Q. And the other cars, the cars directed to general merchandise, into whose custody did they go?—A. The Pennsylvania Railroad,

Q. State whether or not the oil-tank cars which you owned and transferred at that time have not since been designated by name and run upon the Pennsylvania Railroad line?—A. They retained the same name that we gave to most of them.

Q. What was that?—A. The Green Line.

Q. That is what is now known as the Green Line of oil-tank cars on the Pennsylvania Railroad, of which I think Mr. Brundred is the manager?—A. He was and I think still is.

Q. Can you state the amount of consideration you received from the merchandise and general freight cars?—A. Something over \$1,600,000.

Q. Nine hundred thousand dollars for the oil; that would be \$2,500,000. Therefore the difference between the two and a half millions and the gross sum you received would represent the purchase of the refining plant?—A. And the other. We had a large pipe plant; that was owned by another company.

Q. This business that you were engaged in up to that time was a profitable and lucrative business to your company?—A. Sometimes; the average was very profitable.

Q. Had you any desire to get out of it?—A. No, sir.

Q. Do you not know then, as a fact, that the Pennsylvania Railroad exercised their option of terminating your contract at the suggestion of the Standard Oil Company, or by their request, or by the request of some companies or individuals affiliated to them?—A. No, sir; I do not know that.

Q. Have you any reason founded in a fact that you know to suppose that?—A. That was the theory which we held, and I think it was probably the true one; but I do not know it personally.

Q. I will call your attention to this subject. Do you not know, and did you not also at that time, through railroad officials or other sources, that the Standard Oil Company complained of the impropriety of a transporting line, upon which they were dependent for their supply of oil, being also engaged at the same time in competition with them in refining?—A. Yes, sir; that was the point that was made.

Q. For what period prior to the time at which you parted with your interest had that complaint, or the existence of that complaint, been known to you?—A. I do not know. We did not go into the refining business until the spring of 1876, so that it could not have been very long. We sold out in 1877.

Q. Now, have you any knowledge, or are you able to testify any answer whatever, founded upon facts within your knowledge, to this question: Do you know whether, during the period that you were engaged as the Empire Line in the transportation of what was practically the entire amount of crude oil that went from the oil wells to tide-water, the Pennsylvania Railroad Company, out of their proportion of the through charge which they received, paid any rebates to the Standard Oil Company?—A. No, I can not tell; but I do not think it at all likely. I think we would have known if they had done anything of the sort. I think if there were any concessions made by those roads it was made through our agency by their instruction.

Q. For how long before you parted with your property had you known of any complaint by, or desire on the part of, the Standard Oil Company, or any of its officers or affiliated interests, to exclude you from the transportation of this business on the Pennsylvania Railroad?—A. I think they desired to exclude us from the refining business from the moment they found we had embarked in it. I do not know that they ever expressed the desire to exclude us from the transportation business. I never heard it.

Q. After your company gave up this transportation of oil in bulk did you retain any interest whatever in any branch of the oil trade?—A. Nothing of myself.

Q. I mean your company.—A. The company was dissolved and passed out of existence in 1878, but it had one or two affiliated companies. For instance, the Lake Line I spoke of. We did more or less transporting on our freight boats of oil on the lake. There was a terminal yard at New York, which we still retain. It was a separate corporation. I do not recall anything else.

Q. But you were not in any manner, or had any interest in the transportation of oil over the lines of the Pennsylvania Railroad?—A. No, sir.

Q. Do you remember the year 1879, the beginning of 1880, or rather can you recall the examination of Mr. Cassatt, the third vice-president of the Pennsylvania Railroad, as a witness before General Sweitzer, a master appointed by the supreme court of Pennsylvania, in the case of the Commonwealth against the Pennsylvania Railroad?—A. I was not present at any one of them, but I read the report of them in the papers, and subsequently I read the pamphlet.

Q. Did you read Mr. Cassatt's testimony?—A. Yes, sir.

Q. Portions relating to it have been read here before this committee?—A. Yes, sir. It has been very many years since I read it.

Q. Had you any knowledge of the fact of the existence of the rebates that he then testified to, until you heard it resulting from that examination?—A. I think the rebates that he testified to all took place after we sold out. No, sir; I had no personal knowledge of it.

Q. I only want to know whether, as a witness, you can give us any additional facts upon that subject?—A. I have no knowledge of it at all. It was entirely outside of anything I had anything to do with.

Q. From your general knowledge of the transporting trade and your particular knowledge of the oil trade derived from your contact with it, I would like to ask you whether, in your judgment, as a railroad expert, it was either a wise or necessary policy on the part of any railroad to concentrate the transportation of oil in one hand?—A. I should think it unwise. You ask it as a question of railroad policy.

Q. As a matter of railroad policy, can you give this committee any reasons for that; why do you think it unwise?—A. In the first place, it concentrates great power in the hands of one party over the trade of the road. They can remove it at pleasure. In the second place, I think a large number of parties engaged in the same trade are very apt to divide themselves into two different classes as to the way of viewing markets; one class will be hopeful and the other the reverse. The result will be that there will be always one or the other class engaged in shipping some of the traffic. If it is all concentrated in one hand, the views of that particular party as to the market may cause it at one time to stop shipments altogether, and at another time to concentrate a large and difficult volume of shipments to manage. I think a diffusion of trade secures a much more regular and perhaps a larger total to the carrier.

Q. Does it not also secure a more permanent hold upon it by the railroad?—A. Yes, sir.

Q. Now, Mr. Cassatt has testified that the rebates on crude oil given to the Standard Company were, respectively, 49 cents from the Bradford region, and 51½ cents from the lower region. From your knowledge of the oil trade, if it had been the desire of a railroad company simply to concentrate this business into one hand like that of the Standard Oil

Company, was it necessary to give such large rebates as that. I mean if their object had been to concentrate it?—A. It would depend very much upon the state of the trade at the time. I do not recall what the profits of the refiners were at that time. At the present time, I think it would undoubtedly turn all the trade into the hands of one party.

Q. Would not one-half of that turn it?—A. Yes, sir.

Q. Can you therefore, as a railroad expert, see any reason why, even admitting that the object was to turn it into one hand and that object was commendable, such large rebates should be allowed?—A. The ground for allowing a rebate for the purpose of concentrating business into the hands of one party, has, I think, usually been the assurance to a series of carriers who united together for the purpose—the assurance to those carriers of a reasonably good rate, and of a division among them in agreed proportions of the total business. That, I think, is the ground which has almost invariably been put forward for that sort of an arrangement—in all classes of trade, I do not refer particularly to the oil trade. It was in the live-stock trade, and it has been in other branches.

Q. But was there any other reason than that, and I shall come to that directly, why, in your judgment, so large a drawback should have been given?—A. I do not know of any other.

Q. It would have been manifestly better for the treasury of the company, would it not, to have given a less one?—A. It would not have got the trade.

Q. Now, with reference to dealings with other companies and of the necessity of giving low rates, in consequence of the combination or competition of other companies, is there any reason for a reduction of rates whatever, arising from the fact of competition, when the other companies have already agreed among themselves to divide the total business among them in fixed proportions?—A. There are two points which are usually urged for that, one of them which has been just stated. The other is that the rebate given is not in the sense so much of an allowance to the shipper as an actual reduction of tariff made necessary to meet market competition or any other form of competition. Those are the two reasons which are usually given, and it is necessary in order to weigh their force to know all the circumstances of each particular case. They may be bogus reasons or may be genuine.

Q. But where the reason is advanced that it may be necessary to meet the market price of the commodity and enable the business to be conducted, is it not essential that all people should have the same rate?—A. I think so, with the one exception that there ought to be a distinction between the shipper of a very trifling quantity and the shipper of a large quantity.

Q. To what extent would you admit that as a railroad expert? Would you admit it beyond a car load?—A. I would not. There are other parties who take a different view.

Q. If it could have been urged that it was necessary for four railroad companies to unite and turn all the business into the hands of one person, so that that one person might thereafter divide it among them in a fixed proportion, why could not they have divided it among themselves in that fixed proportion without that intervention?—A. I suppose there is nothing to prevent it except the weakness of human nature.

Q. Might it not also be called by a harsher term?—A. Yes, sir.

Q. Do you concede that any advantage resulting from the ability of one man in whom the railroad companies placed their traffic, which he did not have before, to divide that traffic among them in a fixed pro-

portion is at all equal, or overcomes rather the disadvantage resulting to the railroads from the ability of that man when he has got the control of the trade to take it away from them altogether?—A. I do not think so. On that point it is proper to say that a great many very experienced railroad gentlemen hold entirely different views.

Q. Perhaps they are not equal in integrity with yourself?—A. I should not like to say that.

Q. Do you believe that if managers of the four trunk lines had the ability and showed the disposition to sit down and make a contract by which they divided this traffic among themselves in a fixed proportion, that such companies had any necessity for introducing a factor like the Standard Oil Company in order that after they had transferred the trade to them it might give it back to them in the same proportion which they themselves had the power to divide it before?—A. They had frequently attempted to divide it themselves, and some party among them had always had a fancy that the agreed division worked him an injustice, and undertook to remedy that injustice in a way that offended the others, and the pool always broke up. This was their device to overcome that difficulty. I do not think well of the device.

Q. Do you think it was necessary for those four railroads to have this Standard Oil Company injected between them and their traffic as an insurance company or agency to guaranty to each other their faith to each other?—A. Apparently they never did maintain faith with each other until that was done. But I do not admit there was an absolute necessity.

Q. Now take another instance—take the grain trade of this country; is not that grain traffic and has it not been divided among the companies in fixed proportions so far as the trade going to tide-water is concerned?—A. There was an attempt made by what was known for a long time as the trunk line pool to accomplish a division of all the east bound traffic to the sea-board and to interior competitive points, and it did work reasonably well so far as securing a division, and so far as securing a maintenance of rates were concerned. There was always a great deal of friction, always more or less disturbance among them, because some of the lines had a wicked partner that would cut rates privately.

Q. Now what amount in your judgment per bushel of grain raised in this country and shipped for foreign use abroad, would it be necessary for the railroads to give to a factor or middle man in order to concentrate in him the entire grain traffic of the country?—A. A very slight item to the bushel.

Q. Probably one-quarter or a half cent would, would it not?—A. Yes, sir; half a cent would, assuming that the man was a skillful merchant and had plenty of capital.

Q. The effect, therefore, of the allowance to the factor or middle man who raises no grain, of giving to him a preferential rate of half a cent a bushel, would concentrate in his hands all the grain traffic of the country for foreign export, would it not?—A. It would have that tendency. It would depend upon his ability and capital to handle it.

Q. Would not that result in making him practically the only buyer of grain in this country for foreign export?—A. It would have that tendency. I do not think any one man is big enough to do that sort of thing.

Q. Do you think the Government would stand such a thing, or ought to?—A. I do not think they ought to.

Q. Is there any difference except in the character of the commodity

and the extent of area over which the business is transacted between the grain trade of the country and the petroleum trade?—A. I should think not, so far as transportation rates are concerned.

Q. As a railroad expert you have testified that you do not recognize the propriety of making any difference to a wholesale dealer that extends beyond the man who sends a full car load as compared with a man who sends less than a car load?—A. That is the feeling that I have upon the subject, and it rests upon this, if you care to have the basis.

Q. I should desire it.—A. That the distinction between wholesale and retail rates arises from the fact that a wholesale business will bring to the party who deals in it a larger total profit in a given time, because of the large volume handled, even though the profit per unit is much less than it is in the retail case. Therefore the whole question seems to me to resolve itself into determining what policy will bring the largest volume in the most regular manner to the carrier; and it is my opinion, and it is only an opinion based upon such experience as I have had, that in the long run that would be achieved by making the unit which would secure the wholesale rate the car load.

Q. And not extending it beyond?—A. And not extending it beyond. In other words, I think a hundred shippers of a car load a day would be sure to give to a carrier a more regular volume of business, and I think probably a larger total volume of business in a year's time than one shipper of a hundred barrels a day. That is the basis.

Q. Even admitting, for the sake of argument, that the wholesale dealer or owner to an extent beyond a car load could have a preference when you come to deal with the natural or manufactured products of this country, do you think it is wise to refuse to give that preferential rate to the man who actually produces the manufactured products or commodities and give it to a mere middle man who has no control over the trade whatever except that which he is able to secure by means of a preferential rate?—A. I should give it to every shipper.

Q. Who attended to the business?—A. That is all.

By Mr. SMITH:

Q. You are interested in the Red Star Line?—A. Yes, sir.

Q. Under what flag does that line sail?—A. Belgium.

Q. Is American capital invested in that line?—A. Yes; about 90 per cent.

Q. I also understand that you are interested in the Inman Line?—A. Only through the International, which is the owner of one-half of the stock.

Q. Where is that one-half of the stock owned?—A. Chiefly in the United States.

Q. Under what flag does that line sail?—A. English flag.

By Mr. BUCHANAN:

Q. You spoke about four trunk lines. Will you name them, please?—

A. The four trunk lines that were engaged in oil transporting?

Q. Yes.—A. The New York Central, the Erie, the Pennsylvania with its Philadelphia and Erie branch, and the Baltimore and Ohio and their respective connections to the sea-board. The Philadelphia and Erie had as connection the Catawissa Railroad, the Lehigh Valley Railroad, the New Jersey Central Railroad, and the Pennsylvania on its New York line had the Reading Railroad—the Philadelphia and Reading Railroad, the Lehigh Valley, and the New Jersey Central. Those constituted the four trunk lines.

TESTIMONY OF DANIEL O'DAY.

DANIEL O'DAY, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside ?—A. Buffalo.

Q. What is your business ?—A. I am an employé of the National Transit Company.

Q. In what capacity ?—A. General manager.

Q. Of the National Transit Company ?—A. Yes, sir.

Q. That is the company owning the pipe lines, is it not, in the Standard Oil Company system ?—A. Yes, sir.

Q. How long have you been connected with that business in that capacity ?—A. With the National Transit Company since its organization.

Q. When was that ?—A. I think about ten years ago.

Q. Prior to that time in what business were you engaged ?—A. I was superintendent of the line known as the American Transfer Company—oil-pipe line.

Q. For what length of time ?—A. I think four years ; perhaps four years ; three or four years.

Q. And prior to that four years were you engaged in any manner in or about the oil-trade business ?—A. Yes, sir.

Q. In what capacity ?—A. I was in the employ of the Empire Line.

Q. When did you first enter into the service of what is called the Standard Oil Company, or any institution connected with it ?—A. I was in the service of J. A. Bostwick & Co. before I knew there was any connection between the Standard Oil Company and that company.

Q. For what length of time, and in what capacity ?—A. As an employé of Mr. J. A. Bostwick & Co., who were buyers and shippers of refined oil.

Q. Did you while with them attend to transportation questions ?—A. To a moderate extent ; yes, sir.

Q. J. A. Bostwick & Co. have since become connected, or probably were then connected, with the Standard Oil Company ?—A. Yes, sir.

Q. What was the American Transit Company ?—A. The American Transit Company was a pipe line organized for the purpose of gathering crude oil at the wells and delivering it to cars.

Q. Where was it situate, and what was its length up to, we will say, the year 1878 or 1879 ?—A. It was chiefly located in Clarion County, Pa. I should think there were from 70 to 80 miles of pipe in its main line and branches.

Q. Had it any other business or capital invested than in the pipe plant at that time ?—A. I do not know as to that.

Q. You knew of none ?—A. I do not know as to that.

Q. What was the length of its main line of pipe ?—A. About 10 or 12 miles.

Q. What size was that ?—A. The first main line was of 2-inch pipe, and the second main line was about 30 miles in length and of 3-inch, as I recollect.

Q. When was the second main line of 30 miles added ?—A. I think within two years after the origin of the company ; within about two years.

Q. That would have been prior to the year 1878. would it not ?—A. I think it would, sir.

Q. I would like you to be certain if you can on that point?—A. I think it would.

Q. The remaining lines of pipe were local lines of 2½ inches or less?—A. Two inches and larger.

Q. Can you give us now up to 1878 the total length of all? Do you think it would have been over 80 miles, main line and branches?—A. I think perhaps between 80 and 100 miles; of course it is from recollection.

Q. What was the cost, or was then the cost, of laying 3-inch pipe per foot or per mile?—A. As I recollect, the cost of 3-inch pipe at that time was about 60 cents a foot; between 50 and 60 cents.

Q. Was it so high as that at that time?—A. Yes, sir; I think it was.

Q. That would be about \$3,000 a mile?—A. Yes, sir; I think so.

Q. What was the cost of laying, \$800 a mile?—A. I should think between \$500 and \$800.

Q. Eight hundred dollars would be an ample sum?—A. I hardly think so with everything connected with it, right of way and things of that kind.

Q. Four thousand dollars would cover everything, would it not?—A. I think it would.

Q. One hundred miles would represent \$400,000?—A. Yes, sir.

Q. What was the capital of the American Transfer Company?—A. I do not remember, sir.

Q. Was it over \$400,000?—A. I have no recollection about it at all. That was a feature of the business that did not come before me.

Q. Who was its president?—A. J. A. Bostwick.

Q. Is he here to day?—A. I do not know; I have not seen him.

Q. Who was its secretary?—A. I think it was C. W. Jones.

Q. Where is he now?—A. He is in New York.

Q. In what capacity?—A. He is one of the cashiers in the office of the Standard Oil Company.

Q. Who was the treasurer?—A. I do not remember, sir.

Q. Did you not come in contact with him when you drew your salary?—A. With the treasurer?

Q. Yes.—A. No, sir. I was in a position to pay my own salary. I had an office which had a cashier.

Q. I will mention the name so as to refresh your recollection; was Mr. Girty the treasurer?—A. No, sir; I think not.

Q. Mr. Bostwick and Mr. Jones would know it, would they not?—A. Mr. Bostwick would. I spoke of Mr. Jones as secretary; that is my recollection.

Q. You say you do not now know who was the treasurer?—A. I do not remember who the treasurer was; no, sir.

Q. Do you remember a transaction between you, as representing the American Transfer Company, and Mr. Cassatt, the third vice-president of the Pennsylvania Railroad Company, the evidence of which consists in letters exchanged between you and him, which letters were produced in Philadelphia on the occasion of the examination of witnesses before General Switzer, in the case of the Commonwealth *vs.* the Pennsylvania Railroad Company?—A. I remember such a letter.

Q. Under the contract or arrangement evidenced by those letters the American Transfer Company received 22½ cents a barrel on the oil?—A. I believe they did, sir. If you will permit me I would like to state that my active connection with the company was in its operation. My active special duties were to get business for the lines and to convey

ft. I make that statement as an apology perhaps for stating that I do not remember many things which you think I ought to remember.

Q. But in this particular instance you were the officer whose letter requesting this drawback led to the receipt of the drawback?—A. Yes, sir.

Q. Therefore, you were authorized at that time to act in that capacity, as well as to manage the movement of oil?—A. Yes, sir.

Q. Did you at that time or prior thereto receive a similar drawback or larger one from any other trunk line?—A. No, sir; not that I remember. I had an arrangement by which oil was conveyed to Oil City. It would be loaded on broad-gauge cars, and for which largely the 3-inch line was laid.

Q. This contract authorized your company to receive 22½ cents a barrel on all the crude oil that was shipped?—A. I do not remember. I do not remember whether it covered all the oil that was shipped, or oil that was conveyed to the company by the American Transfer Company or through its agency.

Q. Do you not know as a fact that it was paid on all oil, no matter by whom shipped?—A. I do not.

Q. Did you attend in any manner to the receipt of the money that arose from such drawbacks?—A. Yes, sir.

Q. How was the money paid, and to whom?—A. The money was paid in checks to my order, and I subsequently made an arrangement to have it go through one of the clerks of the company.

Q. Why was not that money sent to the treasurer of the company directly?—A. I do not know.

Q. It amounted to a very considerable sum, did it not, in the course of a year?—A. I do not think it did.

Q. Have you not the books or records showing the amounts of drawbacks that you received?—A. No, sir; I have not.

Q. Where are they?—A. I do not know.

Q. What did you do with them?—A. I never had them.

Q. When you received this money did you not enter it in some book?—A. I did not; I passed it to a cashier.

Q. Who was he?—A. W. T. Branch.

Q. Where is he now?—A. I do not know.

Q. Is he not in your service or connected with the Standard Oil Company in any way?—A. Not that I know of.

Q. You say you afterwards made arrangements to have this money paid to a clerk. Who was that clerk?—A. The clerk who transacted the business and who took care of it was Mr. Branch.

Q. The same gentleman you just spoke of?—A. Yes, sir.

Q. When did you last see or hear from him?—A. Seven or eight years ago.

Q. Where was he then?—A. Bradford, Pa.

Q. Did you not claim to Mr. Cassatt, or to the officers of the Pennsylvania Railroad Company, the right to receive this drawback by reason of the fact that you were receiving an equal if not a greater one from other companies?—A. I may have made such claim.

Q. If you made such a claim was it not true?—A. Yes, sir; I think it would be true.

Q. Can you now recollect what the New York, Lake Erie or Western, or what is now known as the Erie, paid you?—A. The arrangement had with the New York, Lake Erie and Western Railroad through my company was that as they were a broad gauge road and unable to reach the traffic in what was known as the lower country, that my company

should lay a pipe line to Oil City and bring the oil to them, as they could not go to where it was, for which we received the cost of doing the work, as I recollect it.

Q. And what else?—A. That was all.

Q. Did you do business for cost in those days?—A. We tried to get all we could.

Q. Did you not get a fixed rate per barrel from the Erie?—A. I had nothing to do with the rate other than to deliver the barrels on the cars.

Q. Do you know what drawback, if any, was paid by the Erie Company?—A. I do not.

Q. Would Mr. Bostwick know about it?—A. He would be more likely to know it than I.

Q. What arrangement had you with the New York Central?—A. None.

Q. Did you get any drawbacks from them?—A. No, sir.

Q. Now, this oil that entered into your pipes was received by you from the wells, was it not?—A. Yes, sir.

Q. What charge did you make to the owner of the oil for passing it through your pipes?—A. The nominal charge at that time was 25 cents a barrel.

The CHAIRMAN. What was that exact service? I do not care for anything more than to know where he took it from, where he took it to, and how and to what he delivered it.

Q. Describe how the local pipe connects with the wells and turns it over to some other avenue—railroad or otherwise?—A. A well is struck in some country and application is made to the pipe line to connect with the wells, which is done through a wooden tank. The tank is measured, a table made for it, and pipe laid to it and connected into it. When the tank is full, if the owner of the oil desires it to be run, as it is called, a gauger goes to measure the oil in the tank. That measurement is taken by the gauger, an employé of the pipe-line company, and by a representative of the owner, or the owner himself.

Q. Up to this time the oil in this tank has been the oil belonging to the producer?—A. Yes, sir. It is then drawn from the tank either by pump or, perhaps, may run partially by gravitation, and it is pumped into the general system of lines into tanks.

Q. Through that pipe?—A. Through those pipes.

By the CHAIRMAN:

Q. What did you deliver it to?—A. Cars.

Q. Then this charge of 25 cents made to the owner was for taking his oil from the wells to the cars?—A. Yes, sir.

Q. And then the 22½ cents that you received from the railroad was taken from the total charge for taking the oil to the sea-board by the railroad; is that it?—A. Now, if you will just allow me, I say that the charge of 25 cents was a nominal charge.

Q. No matter about the nominal character of it; for this purpose it is not important what it is. You got a charge from the producer for taking the oil to the railroad; he paid you something for that service?—A. Yes, sir.

Q. Then you got from the railroad?—A. If you will permit me, the buyer of the oil paid the charge; the producer did not pay the charge.

Q. You got it for that service from somebody?—A. Yes, sir.

Q. That was 25 cents?—A. Yes, sir; the nominal rate.

Q. Then you got 22½ cents for the oil delivered to the railroad out of the freight charge for transporting by rail to the sea-board; is that it?—A. As I recollect it we got 22½ cents.

The CHAIRMAN. The amount is not important. I only wanted to know that the two things were distinct.

By Mr. GOWEN:

Q. That 22½ cents was paid to you by the railroad company.

The CHAIRMAN. Out of the total freight charge?

Mr. GOWEN (to the witness). At any rate, it was paid to you?

The WITNESS. Yes, sir.

Q. They had nothing to do with the total charge to the railroad. You did not enter into that?—A. No, sir.

Q. After you delivered the oil from the tanks of your line to the railroad company your control over it ceased?—A. After it was delivered on the cars; yes, sir.

Q. You had nothing to do with collecting any freight on account of the transportation of that oil beyond your terminus by the railroad company?—A. No, sir.

Q. State whether at that time the practice prevailed, which I believe it does now, of charging in addition to the charge for transporting this oil from the well to the railroad, a charge for keeping it stored in tanks, belonging to your company, if there was a necessity for storing it in tanks?—A. Yes, sir.

Q. What did it amount to at that time?—A. It varied; it was comparatively large.

Q. I mean how much was it?—A. The nominal rate was 2½ cents per barrel per month.

Q. That was the storage charge?—A. Yes, sir.

Q. Now, then, those storage charges and the transportation charge from the well to the railroad were paid to you by the purchaser of the oil when he took it away from you?—A. Yes, sir.

Q. And until so taken away you retained a lien upon that oil for that charge?—A. We held the oil for the charges.

Q. Neither the owner nor the man who purchased it from him could get it from you without paying those charges, or agreeing with you how they should be paid?—A. If oil was left in that way and delivered to the line for storage purposes; but there was but little of that done.

Q. It moved from that time gradually?—A. These charges were as a rule, the great bulk of them, lost in the effort to get the business.

Q. At that time?—A. Yes, sir.

Q. Now, can you tell us who owned the stock of the American Transfer Company?—A. J. A. Bostwick, so far as I knew, sir.

Q. The whole of it?—A. I think Mr. A. J. Pouch had an interest.

Q. Who is he?—A. He at that time was an employé of J. A. Bostwick & Co.

Q. You say you entered the service of the National Transit Company about ten years ago?—A. I think it is about that time since the company was organized; I was in the service at that time.

Q. Has that company been in existence so long as that?—A. It may not be that long. It may be nine or ten years ago.

Q. Prior to this advent into business, under what name was the local pipe line of the oil region conducted?—A. There were two important pipe lines—the United Pipe Lines.

Q. And what was the other one?—A. I will state perhaps there were about ten, but the United and the Union were the larger ones.

Q. The United was the one that was controlled in the interest of the Standard Oil Company?—A. The United Pipe Line, as I understood it, belonged to individuals—J. J. Vandergrift and others.

Q. Give me their names?—A. George B. Foreman; H. L. Taylor, I think, was an interested party.

Q. Well, the United Pipe Line Company has been absorbed and is controlled now by the National Transit Company?—A. Yes, sir; the United Pipe Line Division is a part of the National Transit Company.

Q. And the National Transit Company is one of the companies affiliated with the Standard Oil Trust?—A. Yes, sir.

Q. Certificates of the Standard Oil Trust represent ownership in the National Transit Company?—A. That is as I understand it.

Q. At what period did the National Transit Company open its pipes and pipe line through to tide-water?—A. I think we completed the line in 1881, or 1882.

Q. To where?—A. To New York.

Q. Have you a line to Philadelphia?—A. Yes, sir.

Q. When was that completed?—A. About the same time; nearly the same time.

Q. Have you a line to any other place; a line to Buffalo?—A. Yes, sir.

Q. When was that completed?—A. About six or seven years ago.

Q. In 1882?—A. I think about that time, yes, sir.

Q. Have you a line to Cleveland?—A. We have.

Q. When was that completed?—A. About 1879, I think—it was the first line—or 1880.

Q. Are those all the main lines you have in the oil region—New York, Buffalo, and Cleveland?—A. In Pittsburgh we have a line.

Q. When was that completed?—A. About 1879 or 1880, I think.

Q. How many lines are laid to New York; how many main lines of pipe?—A. About two and a half.

Q. How do you describe half a line?—A. Half a line is described in the form of a loop.

Q. Over the same portions of the district?—A. Yes, sir.

Q. Tell me whether you have two continuous lines of pipe leading to New York?—A. Yes, sir.

Q. Of what diameter?—A. Six inch.

Q. And certain loop lines where there may be impediments or otherwise?—A. Yes, sir.

Q. Is that a 6 inch line?—A. Yes, sir.

Q. Is that line to enable you to stop off the other line?—A. It is made to equalize the pressure.

Q. Where the gravity to be overcome is greater, and the pressure to be resisted is greater, you have more lines?—A. Yes, sir.

Q. So as to enable the same amount of oil to pass at a reduced speed?—A. Yes, sir.

Q. It passes at a greater speed where there is less diameter?—A. Yes, sir; the object is to equalize the flow between the stations.

Q. How many inches is the line to Philadelphia?—A. Six inches.

Q. How many pipes?—A. One and a half.

Q. To Buffalo?—A. Four-inch pipe.

Q. How many lines?—A. One.

Q. To Cleveland?—A. Five-inch line.

Q. How many pipes?—A. I think a little over one and a half.

Q. To Pittsburgh?—A. Four-inch line.

Q. One pipe?—A. One pipe.

Q. Is that Pittsburgh line not the old Conduit Line?—A. No, sir; I think the old Conduit Line is all taken out, removed and gone.

Q. This is a new line?—A. Yes, sir.

Q. What do you consider the capacity of all these lines united when put to their fair, ordinary rate of speed or delivery?—A. Sixty thousand barrels a day.

Q. The total capacity?—A. About that; between 50,000 and 60,000.

Q. Could that capacity be increased by increasing the pumping stations or allowing additional loops?—A. Yes, sir.

Q. To what extent could it be safely increased?—A. Starting in to put in new machinery and additional machinery, you could increase it to almost any extent if you put in pumps enough and water-power.

Q. Could you increase it to 100,000 barrels a day?—A. Yes, sir; it could be done.

Q. Without risk or danger?—A. It would simply be a duplication.

Q. You would have to lay more through lines to do it, would you not?—A. Yes, sir; you would have to increase the through lines.

Q. Without increasing the through lines, and by merely adding additional pumping capacity, so as to accelerate the flow, to what capacity could all these lines be increased?—A. They could be increased to a very large capacity by putting in a sufficient number of stations.

Q. To what extent? You are an expert on that subject and know more about it than anybody else.—A. The stations are about 30 miles apart. Of course if they were 15 miles apart they would do much more business.

Q. Would they double the business?—A. No, sir.

Q. Fifty per cent. more?—A. They might do that.

Q. Then by duplicating the stations wherever pumping stations are necessary, the capacity of this system could be increased to about 90,000 barrels a day, could it not?—A. If stations enough were put in I think you could.

Q. In other words, it could be increased to equal the total present shipment of crude oil to the points to which these pipes lead?—A. The system could be enlarged sufficiently great to do that.

Q. To take the whole of the business?—A. I think it could; yes, sir.

Q. Do you remember the period at which what is called the Tidewater Pipe Line first opened its line for business to connect the oil region from the Catawissa road near Williamsport?—A. I do remember the time.

Q. Can you tell what year that was?—A. No, sir; I can not. I think it was about 1880.

Q. That line, when opened at that time, was a rival line to this that you were interested in, was it not?—A. Yes, sir.

Q. And afforded a means of getting oil from the oil region over that pipe to the Reading road, by the Reading, Central New Jersey, and Lehigh Valley roads to Philadelphia and New York, respectively?—A. Yes, sir; so I understand.

Q. In competition with the interests which you then represented?—A. Yes, sir.

Q. Do you remember that on or about that time a conference was held at Saratoga between members of your organization, of which you I believe was present, and members of the trunk lines as to the question of rebates on oil that were to be charged over the trunk lines to the Standard Oil Company, in order to meet this new competition that was thus developed?—A. I do not remember of being at any such meeting.

Q. Were you informed, or did you know, that any such meeting had taken place?—A. I do not remember of knowing or being informed of it.

Q. Had you at that time anything to do with the question of rates to tide-water?—A. No, sir.

Q. Nothing whatever?—A. No, sir.

Q. Did it never come within your cognizance?—A. No, sir.

Q. Did you never hear of such a meeting as I have described?—A. I may have heard of it, and may have heard of such meetings, but I do not recall that particular meeting.

Q. I am only calling your attention to this fact in order to direct your mind to the question I now ask you, viz: To what rate was the transportation on crude oil reduced upon the tank lines to the Standard Oil Company at or shortly or some time after the advent into business of the Tide-water Pipe Line?—A. I do not know.

Q. Had you nothing to do with the subject at that time?—A. Nothing that I remember of.

Q. You were, I believe, at that time actively engaged in securing the rights of way and securing the construction of your own pipe-line?—A. Yes, sir.

Q. Your object was to open as speedily as possible, by means of pipe-lines, an avenue to the sea-board which could compete with the new rival that would appear; you were anxious to complete the lines as quickly as possible?—A. Yes, sir; after they begun them.

Q. I asked you, and I am going to take your answer, whether you have any knowledge whatever upon the subject of the rates at which either crude or refined oil have been transported to tide-water over the lines of the trunk lines or any of them since the opening of the rival line of the Tide-water Pipe Company?—A. I have not, sir.

Q. Do you know what they are?—A. I do not know what they are. It is not in my department.

Q. Do you know whether any rebates on account of such a traffic were received within that time?—A. I do not.

Q. I am confining you now to tide-water.—A. Since the completion of the Tide-water Line?

Q. Yes.—A. I do not.

Q. Have you not within the last three years had control of or taken interest in the question of rates on refined oil?—A. No, sir.

Q. To tide-water?—A. No, sir.

Q. Have you not had charge of or taken interest in the question of rates on refined oil in the West or South in connection with the interests affiliated with the Standard Oil Company?—A. No, sir.

Q. Never?—A. I have no connection with it. It is not in my line of business.

Q. Have you ever taken any part in it?—A. I do not remember of taking any part in it.

Q. Do you remember the Cleveland and Marietta Railroad Company?—A. I do.

Q. You remember Mr. Pease was receiver?—A. I met him once; yes, sir.

Q. Did you not have a conference with him upon the subject of making a rate over his railroad for crude oil?—A. Yes, sir; but not for refined oil.

Q. When was that?—A. I think it was in 1882 or 1883.

Q. Where did you desire that oil to be transported; from what point to what point?—A. The arrangement that you speak of was not made with Mr. Pease. An arrangement was made with the managers of the Wheeling and Lake Erie Railroad, I think, who at that time controlled the Marietta Railroad, which was continued after Mr. Pease, the re-

ceiver, was appointed. The arrangement consisted in making a through traffic with the railroad company of which the Maxburg line was a part. We made a connection from Marietta to a point south, the total arrangement of charge being divided between the railroad and the pipe line.

Q. What rate did you get over that railroad for the transportation of oil?—A. To where?

Q. For the distance it passed over the railroad.—A. A good deal of oil was transported from Marietta to Cleveland. The bulk of it was transferred south to Marietta and Parkersburgh.

Q. At what rate?—A. I think the through pipeage rate and rail rate was 35 cents, as I recollect it.

Q. What part of that did the railroad company get?—A. I have forgotten what the divisions were. My recollection is it was 20 and 15 cents.

Q. Was it not 10 cents?—A. I can not say, sir; I can not be positive.

Q. I will read the following to you to aid your recollection. It is an extract of a letter to Mr. Rappello, general counsel of the receiver, and signed by P. Pease. He states that—

Mr. O'Day, manager of the Standard Oil Company, met the general freight agent of the Wheeling and Lake Erie Railroad and our Mr. Terry at Toledo about February 12, and made an agreement (verbal) to carry their oil at 10 cents per barrel. But Mr. O'Day compelled Mr. Terry to make a 35-cent rate on all other oil going to Marietta, and that we should make the rebate of 25 cents per barrel on all oil shipped by other parties, and that the rebate should be paid over to them (the Standard Oil Company), thus giving us 10 cents per barrel for all oil shipped to Marietta, and the rebate of 25 cents per barrel going to the Standard Oil Company, making that company, say, \$25 per day clear money on Mr. George Rice's oil alone.

State whether that is a true statement.—A. It is not a true statement.

Q. In what respect?—A. In the respect, first, of the divisions. It may be true regarding that. But I am not sure of that; I do not recall it well enough to know. It is not a true statement that we compelled the road in any sense to do anything of the kind.

Q. Were you not under your agreement to have your oil transported from Marietta over the railroad at 10 cents a barrel?—A. We had an arrangement by which the through rate from the wells, which included the pipeage charge, was to be a certain figure, and was to be divided between the railroads and ourselves.

Q. What share did the railroad get?—A. My recollection, which is rather hearsay, was 20 cents pipeage rate, and the railroad 15 cents.

Q. And not 10 cents?—A. I do not want to be positive of that.

By the CHAIRMAN:

Q. Does that rate which you give include your local pipeage too?—

A. Yes, sir.

By Mr. GOWEN:

Q. Where did this oil strike the railroad?—A. At a place known as Maxburg.

Q. Went from there to Marietta, Ohio?—A. Yes, sir.

Q. Now, I ask you if the rate which the railroad received out of the joint rate was not only 10 cents a barrel?—A. My recollection is, as I said before, 15 cents; I won't be positive of that.

Q. Would you assert your recollection against a judicial determination of this question by the court?—A. I certainly should not.

Q. Now, did you not make it as a part of that arrangement that this railroad company, or its receiver or manager, should charge a certain

Mr. George Rice, who was a competitor with you, a higher rate on his oil?—A. No, sir.

Q. You did not?—A. We did not.

Q. Were you not to receive, and did you not receive, from this railroad, or its business, a payment to your company on account of the oil they transported for Mr. George Rice?—A. Yes, sir; the railroad company agreed that the rates should cover all oil transported.

Q. What rate?—A. The fixed rate as between the railroad and the pipe line.

Q. That is to say that when the through rate of 35 cents was charged on the oil which passed through your pipe line and their railroad together, and out of which you received 20 or 25 cents, as your recollection may be, they were to charge the same rate to Mr. George Rice, whose oil passed only over their railroad, and not through your pipe line?—A. There was nothing special about George Rice; it covered the oil.

Q. But did that other oil which was in competition with you pass through your pipe line?—A. No, sir.

Q. Did not they therefore, on that oil which only passed over their railroad and not through your pipe line, pay to you the same allowance or rebate that they did on your oil which did pass?—A. They did, but we returned it through the advice of our counsel, Mr. Dodd.

Q. How long did you keep it?—A. A very short time.

Q. It was a hot time for Mr. Rice?—A. I don't think it was; he was a hot man.

Q. The result of that arrangement, if it had been carried out—assuming your recollection to be correct—you would have paid 15 cents to the railroad for your oil, and Mr. Rice would have paid 35 cents, would he not?—A. No, sir; he had the privilege of doing what he did, which he afterwards did do.

Q. He was not using your pipe line?—A. No, sir; we tried to get him to make an arrangement with us to use our pipe line, but he would not do it; he wanted a better rebate than anybody else.

Q. He had his own means of bringing this oil to the railroad; he did not require your pipe for that service?—A. He required the pipe to get his oil to Marietta, and subsequently laid a pipe to Marietta.

Q. Was not this the fact, as Judge Baxter has found, in this case, that Mr. Rice, who at that time only used the railroad, paid 35 cents for the transportation of a barrel of oil? Was not that true?—A. I took it to be true.

Q. Now, out of that sum how much did you get from the railroad out of what they had received from Mr. Rice?—A. We did not get any; that is, we did not retain any. The railroad company agreed to account to us for the oil that went over its lines, and they did make an accounting to my recollection of about \$200 or \$250, or something like that, on oil other than that which passed through our lines. Our counsel, Mr. Dodd, advised me that we could not do that business, and we refunded the money.

Q. Was that refunded before the investigation of the case took place in court?—A. I do not know; I do not remember.

Mr. BUCHANAN. Before this examination proceeds any further, I wish to say that the use of the terms "in court" and "Judge Baxter" indicates to me that there has been litigation upon this subject between Mr. Rice and some company. I would like to know before the examination goes any further whether there has been such litigation between Mr. Rice and any company represented by or that would be bound by

the statements of the witness now upon the stand; and second, whether, if such litigation has been had, it is concluded and the matter disposed of in the courts, or is in any way still pending. I ask this question solely for information, because I do not know anything about the matter.

Mr. GOWEN. No, sir; the proceedings are entirely completed. It was not a suit between Mr. Rice and anybody. It was a proceeding against the receiver of this road to dismiss him from his receivership. That has been terminated. It has been dismissed, the case is ended, and reported in the Federal Reporter.

Mr. SMITH. Who rendered that decision?

Mr. GOWEN. Judge Baxter; he removed him.

Mr. SMITH. Was he judge of the United States court?

Mr. GOWEN. He was judge of the circuit court for the southern district of Ohio.

Mr. SMITH. A United States court?

Mr. GOWEN. Yes, sir.

The CHAIRMAN. I understand, in answer to Mr. Buchanan, the information is furnished that there was a proceeding pending to remove a receiver. That proceeding resulted in the finding by the court removing him, and that litigation is closed.

Mr. GOWEN. That branch of the litigation is closed.

Mr. BUCHANAN. That answers my inquiry. But there has been another remark made that leads me to ask if there is any other branch of the case remaining unclosed.

Mr. GOWEN. Only this: The jurisdiction that the United States court was enabled to take over this case arose from the fact that a receiver had been appointed in a proceeding in that court to foreclose the mortgage, and therefore as the receiver was an officer of that court, the court took jurisdiction of this question. Whether the proceeding to foreclose the mortgage is ended or not, I do not know.

Mr. BUCHANAN. That answers my question.

Mr. GOWEN. There is no other suit pending about it that I know of.

By Mr. GOWEN:

Q. Where did this oil that was transported over this railroad to Marietta originate?—A. In the country in and about Maxburg.

Q. Ohio?—A. Yes, sir.

Q. There is a small oil-field near the Maxburg field in southeastern Ohio?—A. Yes, sir.

Q. How far is that field from the Ohio River?—A. Perhaps 15 or 20 miles; somewhere along there.

Q. The largest town near to it on the Ohio is Marietta?—A. Yes, sir; south.

By Mr. SMITH:

Q. You stated that the charges on oil were lost in trying to get the business, if my memory serves me right?—A. Very largely.

Q. How were they lost?—A. In competition in buying the oil, bidding for the oil.

Q. Bidding for the oil?—A. Yes, sir.

Q. Did you have to purchase of somebody?—A. We had to purchase oil.

Q. Have you a line to Baltimore?—A. Yes, sir.

Q. How did you secure the right of way?—A. By a negotiation with the parties owning the property.

Q. Did you ever meet anybody who refused to sell?—A. Yes, sir; we have at different times.

Q. What proceedings did you take then?—A. In the State of Pennsylvania the proceedings are under the law, but we did not have to make any use of our legal privileges in the State.

Q. When was that law passed or enacted?—A. I do not remember.

Q. Was it in 1883?—A. No, sir; I think it was prior to that time.

Q. It was in 1883. I have the volume but I forgot to bring it along this morning. You made use of that right?—A. I do not recall making use of that right except in two or three local cases. We had a right of way to obtain over a large amount of territory controlled by Mr. Gowen at the time, which he very cleverly sold us.

Q. You found it necessary to appeal to the legislature of Pennsylvania to pass an act giving you the right of condemnation, the same as railroad companies?—A. I do not know who made the application for it.

Q. Would it not have grown out of that?—A. No; there was a great deal of agitation through the country for a long time for such an act.

Q. Where did the agitation come from or arise?—A. The people at large wanted the right to lay pipes.

Q. The people at large?—A. In the oil regions, yes, sir.

Q. Did they lay it?—A. They wanted the privilege of laying it.

Q. Was not it a company, a corporation?—A. The people might be formed into a corporation, many of them.

Q. How many pipe lines are there outside of the Standard Oil Company's line now in operation from the oil district to the sea-board not controlled or owned by the Standard Oil Trust?—A. One.

Q. What is its length?—A. I should think about 300 or 320 miles.

Q. What is the name of the company or corporation that owns it?—

A. Tide-water Pipe Line.

Q. Is that running in opposition to the Standard Oil Trust?—A. I have always understood it is competing for business.

Q. Competing for business?—A. Yes, sir.

Q. Where does the competition come in?—A. On the price of oil. The rates are the same; nominal rates.

Q. Has there ever been an understanding between the two corporations?—A. I have heard it stated that there is; but of my knowledge I do not know.

By Mr. GOWEN :

Q. Is the National Transit Company organized under or has it acquired the right to use the eminent domain of the commonwealth to lay its pipes?—A. We have never exercised it.

Q. Are you organized under that general pipe law?—A. Really I do not know that. That is a feature of the business I do not know.

Q. Are you one of the corporations that has been organized under the general pipe-line laws. That, I think, is what Mr. Smith wanted to know?—A. I do not know whether the National Transit Company is a corporation under the general law or not, or whether under a special law.

Q. You have mentioned here that in my State you laid your pipe line through some land I controlled. State whether or not if I had not given you that consent you could have gotten around that land by making a loop?—A. Yes, sir.

Q. Was it not mountain land?—A. Yes, sir.

Q. And worthless for anything that could be injured by the location of a pipe line?—A. Yes, sir.

Q. What did I tell you?—A. That we could have the right of way if we paid for it.

Q. Have you paid for it?—A. Yes, sir.

Q. Did I not say that I would not take advantage of your company by compelling you to go around the land?—A. Yes, sir.

O. Was not the land the property of a corporation of which I was only an officer?—A. I presume it was.

Q. Did you not pay to that corporation the fair value of the right you got to lay your pipe?—A. Yes, sir.

Q. The Tide-water Pipe Line Company is an organization feeding its own refineries, is it not?—A. I do not know whether it feeds any other refineries than its own.

Q. Do you not know that it feeds its own refineries in New York and Philadelphia, and one that is affiliated to it, Lombard, Ayers & Co.?—A. That is my understanding.

Q. Do you not know that the Tide-water Pipe Line was a private enterprise to supply those refineries, and is not located under any general law and is not a common carrier.—A. I do not know it.

Q. Do you not also know the fact that your corporation has acquired a minority interest in the stock of that company by purchase?—A. I understand that they are stockholders.

Mr. CHOATE. Mr. Chairman, will you allow the witness to explain the facts with reference to that Ohio business?

The CHAIRMAN. The witness is at liberty to make any explanation he wishes.

The WITNESS. I would be very glad to explain to the gentleman just how that arrangement came about. When the Maxburg oil-field was opened and promised to be quite a large field we went down there with the intention of laying a pipe line to Marietta or to Parkersburgh. We were solicited by the railroad company that instead of laying a line and paralleling their own road, to make a connection with them and to divide the traffic in some agreed form, which we acceded to. The railroad company in their desire to bring about that arrangement agreed to account to us for all of the oil that went over their line, whether through pipe or not, and they did so account until we were advised by our counsel that it was illegal, and we discontinued it. The arrangement was simply a connection between the pipe line and the railroad, as it might be between two railroads, to divide the traffic.

By the CHAIRMAN:

Q. How long a time did that arrangement continue?—A. I think it continued for six or eight months.

Q. That was the arrangement by which you had to account for all oil furnished you?—A. I do not remember how long that continued. It amounted to a couple of hundred dollars, or something like that.

Q. Was there a re-accounting by which you know the amount?—A. Yes, sir.

Q. How much was the amount paid to your company under that contract for oil that did not pass through your pipe lines?—A. My recollection is that it was the first and only accounting there was, and it amounted to something in the neighborhood of \$200.

By Mr. GOWEN:

Q. But you have stated that that was similar to a railroad arrangement for a division of business. When one railroad carries traffic over its line and gives it to another railroad, and the whole is carried at a through rate, each company takes out of the through rate its proportion according to a pro-rate of mileage and the distance over which it is transported?—A. Very often terminal facilities are included, of course.

Q. But in your case you had a pipe line which delivered oil to a railroad, and there was to be a through rate of oil covering the transportation in your pipe and the transportation of the railroad as well?—A. Yes, sir.

Q. And you secured or obtained an arrangement under which that same rate was charged to other people, or one other person, who only transported over the railroad and did not transport through pipe at all, did you not?—A. We were offered such an arrangement by the railroad company and we accepted it.

Q. The result of it was that a person in competition with you who did not use your pipe paid as much for having his traffic moved over the railroad as you paid for the pipe and railroad together, was it not?—A. I do not know, sir.

Q. Was not that the result, that you exacted the same rate?—A. We did not exact it; we were offered the rate.

Q. And you accepted it?—A. Yes, sir.

Q. Now, you received your share of the money for the joint rate of that which passed over the pipe and railroad?—A. We received whatever the railroad company gave us.

Q. And you were to receive exactly the same amount out of what somebody else paid, although that person did not use your pipe line and you furnished no service through your pipe line to him?—A. That is what the railroad company offered us. We accepted it and returned it afterwards.

By Mr. BUCHANAN:

Q. And under the operation of that agreement you got about \$200?—A. As I remember it.

Q. And then discontinued the agreement?—A. Yes, sir.

Q. Am I correct in understanding you to have said a little while ago that had you not had this arrangement offered you you would have paralleled their road with your pipe line?—A. Yes, sir; that was my intention.

By the CHAIRMAN:

Q. Was there any other payment made to the pipe line for oil transported by it for the local pipeage, the gathering of it from the wells in this instance?—A. No, sir; that covered the through rate.

Q. The 35 cents covered the local pipeage rate, all the storage rate, etc.?—A. Yes, sir.

By Mr. GOWEN:

Q. Were there any individual oil producers in that Maxburg region who sent their oil through your pipe?—A. I think the bulk of the oil was sold at the wells, as it usually is.

Q. It was bought in your own interest?—A. It was bought by buyers of oil.

Q. Were there any other refineries not connected with the Standard Oil Company who used that pipe line?—A. Yes, sir.

Q. Did you make any charge to them for passing it over your pipe?—A. Yes, sir.

Q. Everybody paid the same charge?—A. Yes, sir.

Q. When you made this agreement, was it with Mr. Pease?—A. No, sir.

Q. Mr. Terry?—A. Mr. Woodford, I think.

Q. State whether you subsequently laid a pipe line along the Cleveland and Marietta Railroad.—A. We laid a pipe line to Marietta.

Q. Along the railroad?—A. Partially.

Q. Using the bed of the railroad?—A. Partially.

Q. And therefore took traffic through your pipe line which otherwise could have gone over the railroad?—A. Yes, sir.

Q. And the railroad lost the transportation on that oil in consequence of the location of your pipe line?—A. That changed the business from the cars to the pipe line.

Q. And you used the avenues of the railroad over the pipe to accomplish that object?—A. Partially. We may have done so. I think in a little way we laid a direct line, while the railroad was indirect.

Q. What arrangement had you with the railroad company to allow you to occupy this right of way for this purpose?—A. No arrangement.

Q. Did you pay them anything for it?—A. I think we did.

Q. A fixed rate, or a sum for every barrel?—A. We paid them whatever we got in the right of way; no fixed sum.

Q. What do you mean by right of way?—A. Whatever land we got we paid for, as we did for other people's land.

Q. Did you find the railroad willing to let you make use of their facilities and eminent domain for the purpose of locating a line which was to take business from the railroad?—A. No, sir; they tore up our pipe.

Q. How did you get it down again?—A. We owned the land.

Q. You mean you bought the fee simple of the land over which the railroad company had a mere easement?—A. Yes, sir.

Q. And you enforced your right to locate this pipe by reason of the fact that it did not destroy the easement that the railroad had?—A. Yes, sir.

Q. You asserted that principle?—A. Yes, sir.

Q. Do you remember in the year 1880 you had pipe connection at Brady's Bend, Pa., on the Alleghany River, for loading oil into barges?—A. Yes, sir; I think we did about that time.

Q. Do you remember whether Mr. George Rice, or probably others, were getting oil at that time through pipe lines and transferring it through barges to Pittsburgh?—A. I think prior to that time there was more or less oil transported by barge.

Q. By people who were engaged as independent refiners in opposition to yourselves?—A. I do not recall it.

Q. State whether you did not order that pipe line taken up.—A. We did not until we ceased to have business for it.

Q. Do you mean to say there were not people who were willing to receive oil in barges by that pipe line at the time you took it up?—A. Shipments of oil by barges were so irregular and dependent upon the state of water in the river and the danger to our tanks from ice or whatever cause leading down to the river that we were induced as a matter of safety to the custody of the oil to take up the pipes, but we did not take them up until the business was large enough to warrant us in taking them up.

Q. What was the size of the pipe through which George Rice got oil?—A. I do not know that he got any oil.

Q. Well, whoever got it; 2-inch pipe?—A. Four or 5; maybe 6-inch pipe.

Q. Surely it was not a 6-inch pipe?—A. I don't know.

Q. Did you ever know a 6-inch pipe laid for that kind of business?—A. Certainly.

Q. Where?—A. Nearly all of the pipe laid for the delivery of oil is that.

Q. But not at that time?—A. The oil delivered to the wells was in iron tanks.

Q. Was not the original through-pipe line to Pittsburgh, the conduit line, only 4 inches?—A. Yes, sir.

Q. Did you not have at one time correspondence with Mr. George Rice upon this very subject?—A. I might have had; I do not recall it.

Q. Don't you know that he protested against your taking up this pipe because it interfered with his getting oil and using the cheap transportation by the river, and compelled him to use the dearer one, the railroad, to compel him to get his oil to where he wanted to?—A. I do not know.

Q. Your lack of knowledge upon that subject would be overcome by the production of any correspondence to that effect?—A. It would have a large influence.

Q. Anything over your own hand would?—A. Yes, sir.

Q. Will you agree that it be offered in evidence without calling you back?—A. I would like to see any such thing, if you will permit me.

Q. I would like to ask, so that I may prove whether this statement of the Union Tank Line car capacity is not known and recognized as accurate and agreed to by the trade [handing witness a paper].—A. I presume it is accurate. It is out of my jurisdiction; I do not know about it.

Q. How do you mean it is out of your jurisdiction?—A. It is not in my department.

Q. You have had a very extensive knowledge of the oil trade. Don't you know that this joint tank line circular giving the numbers and capacity of tank-line cars is used and accepted by the trade as correct?—A. I do not; I do not know anything about it. The only capacity of tank cars I know anything about is the capacity of the cars as a check between the reception and delivery of oil over our pipe lines.

Q. In order to ascertain that do you gauge each car, or do you not refer to some printed statement of its capacity? Is not the printed official statement of the capacity of tank cars accepted by the people who use them, and thereby are they not relieved of the necessity themselves of gauging each car in order to ascertain what it contains when it is loaded?—A. That is generally the case.

Q. Don't you believe that this is such a statement?—A. I don't know.

Q. Look at it.—A. It is the capacity of oil-tank cars.

Q. Would you accept it if it was offered to you?—A. I should like to know where it came from and all about it.

Q. Do you make that inquiry when you accept your own?—A. We know when we load tank cars whether they are Union, Green Line, or private cars. We usually know what the capacity is. If we do not we measure the cars.

Q. How do you know? What means of ascertaining that fact have you?—A. There are well-known gaugers who make a business of it. I think they are appointed by the courts.

Q. Do you mean to say you have those gaugers come and gauge the Union and Green Line cars when you load oil into them?—A. We have a table.

Q. From where do you get it?—A. From the Green Line if they are Green Line cars.

Q. And if they are Union Tank Line cars you get it from the Union Line?—A. Yes, sir.

Q. And you accept them as accurate?—A. Yes, sir.

Q. And do you send out an inquiry when such a printed statement is sent to you, whether it is accurate or not?—A. If we have any reason to question the accuracy of the gaugers of cars we gauge them ourselves.

The CHAIRMAN. Are you inquiring as to the capacity of this witness to identify that particular paper?

Mr. GOWEN. Yes, sir.

The CHAIRMAN. He does not seem to be able to.

The WITNESS. I would not be able to identify that.

Mr. BUCHANAN. He said so twice.

By Mr. SMITH:

Q. Are you at this time laying an 8-inch pipe on the right of way of the Chicago and Atlantic Railway from the oil fields at Lima to Chicago?—A. I understand such a line is being laid.

Q. Are the locomotives and cars now engaged in distributing the pipe along that line?—A. I understand so.

Q. What agreement or arrangement have you made with that railway company for the right of way on their property?—A. I have made no arrangement.

Q. I mean your company or corporation?—A. I do not understand any arrangement has been made. I never made any personally. I presume some arrangement has been made, but not by me.

Q. Do you think that a railroad company would permit any corporation or company to lay a pipe line of that nature and kind and for that use along and over its grounds to compete with its own traffic for, so to speak, nothing?—A. Yes, sir.

Q. Don't you think there must be an understanding between this pipe line and railroad company as to this traffic business?—A. I believe the railroad company has begun to see that it is to its advantage to have that pipe line there.

Q. How?—A. In the freight it will bring to them.

Q. Bring freight and not use their cars?—A. The pipe itself is a very large item of freight.

Q. When once put down is there any more freight to be handled by the company?—A. Yes, sir; undoubtedly.

Q. Does the Chicago and Atlantic Railway line extend beyond Chicago westward?—A. Not that I know of.

Q. Then how can this be of benefit to that railway company?—A. To have a pipe alongside.

Q. Which naturally takes away the traffic from the company.—A. In the first place, it gives the railroad company a large item of profit in the transportation of the pipe, its material, and construction.

Q. After that material, pipe, and construction and all the labor connected therewith is completed, what benefit has the railway company thereafter?—A. The benefit of transporting coal or any freight that is incident to the construction of the line.

Q. What has coal got to do with pipe?—A. In the operation of the pipe coal is a very large item.

Q. How so?—A. In the manufacture of steam.

Q. Is your company engaged in piping natural gas?—A. There are a number of local companies organized in the laying of natural gas.

Q. Is your company?—A. In which our company is interested.

Q. Are you engaged in manufacturing these gas pipes?—A. No, sir; I am not.

Q. I mean your company?—A. No, sir.

Q. Are you supplying natural and other gas to cities?—A. We are supplying natural gas.

Q. Are you supplying Buffalo?—A. Partially.

Q. Is your company interested in the gas plant of Chicago?—A. Not that I know of.

By Mr. BUCHANAN :

Q. I would like to know a little more about this pipe along the railroad bed. It is intended, I suppose, to use that pipe for the transportation of oil to Chicago, is it not?—A. I presume so.

Q. And pending the construction of that line, how is that oil transported?—A. In cars.

Q. Then when the line is finished and the oil goes through the pipe, it will not be transported over the track in the cars; is not that so?—A. It is so.

Q. Will not the railroad company thereby lose the freight on that oil?—A. They certainly will on any oil that goes into the pipe.

Q. Will not the loss of the oil now transported over the railroad be greater than the gain accruing to the railroad from the transportation of the pipe during the construction of the line, and of the coal needed to maintain the car at the station subsequent to the construction of the line?—A. I can not say as to that. There are a number of competing roads. It would be impossible for me to give a correct idea of that.

Q. Have you an idea of the present amount of shipments of oil over that road?—A. I have not.

Q. Is it considerable?—A. I really do not know what it is.

Q. You believe there is a market in Chicago for your oil, else you would not lay your pipe?—A. That is the belief.

Q. If that market exists, what prevents this railroad from supplying it?—A. The reason I should take it, without being entirely familiar, and I am not entirely familiar with the so-called Chicago line, but I take it that the reason was that the Ohio oil could not be used as fuel paying the railroad charges, and in order to enable it to be used as fuel those charges should be materially reduced, which could only be done by pipe line.

Q. Am I then to understand that the transportation by pipe is done at a much less cost than transportation by car?—A. It is done at something of a less cost; how much less I can not say.

Q. From your experience can not you give us about the ratio?—A. No, sir; I can not very well. It is a question I have never given much consideration to.

Q. You have spoken about piping natural gas in supplying cities. What cities to your knowledge, or within the range of your information, are so supplied by your company?—A. Our company is interested in companies that are supplying Buffalo and Jamestown, N. Y., Corry, Pa., Meadville, Oil City, Warren, and Youngstown, Ohio, Toledo, and some other smaller towns in Ohio.

Q. What logical or business relation does that branch of industry have to the carrying of oil from the wells to the sea-port or other places of consumption?—A. The original prompting to convey natural gas was for the purpose of being able to use surplus and otherwise useless pipes that had become unnecessary for the conveying of oil, and might be made available for conveying natural gas. That, I think, was the original motive.

Q. I think you spoke of your company as being the National Transit Company?—A. Yes, sir.

Q. Do you know whether that has become connected with other companies in the formation of any trust or combination?—A. I do not.

Q. Do you know whether its capital stock has been transferred in trust to the Standard Trust or Standard Oil Company, or would you be in

a position to have knowledge on that subject?—A. No, sir; I would not be in a position to have knowledge of that.

By Mr. GOWEN:

Q. What is the length of this Lima Pipe Line to Chicago?—A. About 200 miles, I think.

Q. Is it a 6-inch pipe?—A. Eight-inch.

Q. What is the weight of an 8-inch pipe per mile?—A. About 30 pounds to the foot.

By Mr. BUCHANAN:

Q. Empty or full?—A. Empty.

By Mr. GOWEN:

Q. Thirty pounds to the foot?—A. Yes, sir.

Q. How many tons per mile is that? It weighs 30 pounds to the foot. It is 90 pounds to the yard. That would be about 70 tons to the mile, would it not?—A. I have not figured it; I think about that.

Q. Seventy tons to the mile, and it is about 200 miles long?—A. Yes, sir; about.

Q. Therefore the entire business that the railroad company would get by transporting that pipe would be about 14,000 tons?—A. I think they are the figures.

Q. What will be the capacity of that pipe? How much oil can you run through it?—A. It depends some on the stations.

Q. Do you think you will run 10,000 barrels a day?—A. Yes, sir; about that.

Q. Ten thousand barrels a day will be 1,400 tons a day, will it not—seven barrels to a ton?—A. About that.

Q. The annual tonnage of that pipe line will be 420,000 tons to a year?—A. Yes, sir.

Q. Now, do you think it is to the advantage of a railroad to give up 420,000 tons a year in order to secure the transportation of this 14,000 tons of pipe?—A. I think it is in that case.

Q. Do you mean that it is an advantage for a railroad to give up a business of 420,000 tons a year in order to—

Mr. BUCHANAN. Excuse me. I think the committee ought to draw the conclusions.

By Mr. BRECKINRIDGE:

Q. What pipe lines are there in the country now engaged in transporting oil?—A. Do you mean the names of the pipe lines?

Q. I mean principally those from points in the interior to the sea-board, and what I suppose you would call trunk lines. I do not mean subdivisions under a company, but one company may embrace a number of lines.—A. There are two conveying oil to the sea-board—the National Transit Company and the Tide-water Pipe Line. There are a number of interior lines delivering oil from the wells to the railroad; quite a number of them; I should think six or eight, perhaps.

Q. Those are partially local lines?—A. Yes, sir.

Q. At what points on the railroads or what part of the country do these local lines deliver their oil?—A. There are local lines in Ohio or Pennsylvania.

Q. In speaking of these principal lines that go to the sea-board, that embrace also, I believe, lines that go to the lakes, Chicago, and Buffalo, do the railroads carry any considerable amount of oil to these local lines now?—A. They do; considerable oil.

Q. They carry a good deal of oil then from the interior to the sea-board?—A. I believe there is quite a large amount shipped from the interior to the sea-board in cars.

Q. Do you know how the charges made by the railroads compare with the charges made by the pipe lines?—A. I do not know about the charges; I am not familiar with them.

Q. You spoke of there being two lines which embrace all the pipes from the interior to the great centers of refining oil and distributing refined oil, such as the lake ports and sea-ports. What are the names of those two companies?—A. That are supplying those refineries with crude oil?

Q. Yes.—A. The National Transit Company and Tide-water Pipe Line, with the addition that there are other lines supplying the interior towns, such as Pittsburgh.

Q. Are they wholly disconnected from the National Transit Company—I believe that is the name of it?—A. So far as I know they are.

Q. And the Tide-water Company?—A. So far as I know.

Q. Am I to understand from that that neither of these two principal lines that you speak of have any control whatever in the line, for instance, that runs to Pittsburgh?—A. They have not, that I know of.

Q. You have yourself a line that runs to Pittsburgh?—A. We have, and there is an additional line, a competing line.

Q. Do you have much difficulty in regulating your charges with that line, or do they compete with you pretty sharply?—A. They compete with us pretty sharply.

Q. Your rates are not uniformly the same with that particular line?—A. Yes, sir; they are uniform.

Q. Then there is not much competition where there is uniformity of rates?—A. Our rates are uniform to our patrons. I don't know whether theirs are.

Q. I am speaking of your rates as compared with your competitor's rates. What other lines lead from the source of supply to the markets besides the sea-board line, the National Transit Line, and this one competitor to Pittsburgh?—A. There are a large number of small lines leading to the railroads.

Q. That is not the point. I am speaking of lines that lead from the source of supply to the great markets. I am speaking of the railroads that lead from the great source of supply to the market.—A. Those are through lines, the sea-board lines.

Q. I speak of lines other than those three that you have just enumerated.—A. There are no others that I know of.

Q. Therefore the placing of crude oil into the markets is under the control of three powers; one is the National Pipe Line or Transit Line, the other the sea-board line—I may say, four—the other the single competitor to Pittsburgh, and the fourth, the railroads.—A. The railroads; those are the avenues.

Q. This National Transit Line is, I believe, a part of what is understood as the Standard Oil Company, is it not?—A. It has connection with it; it is affiliated with it.

Q. They amount substantially to the same thing. It is harmonious capital that runs both concerns?—A. So I understand.

Q. Pretty much the same stockholders, but a division of labor and a division of organization?—A. Yes, sir.

Q. So that the National Transit Line or the people who own that line are very largely engaged in refining oil, are they not?—A. Yes, sir.

Q. There exists then a certain partnership between them in the re-

fining business and the transportation business?—A. The interest in both would be their interest, of course.

Q. It would be harmonized?—A. Yes, sir.

Q. And the other refiners in the markets other than Pittsburgh have no other means of getting crude oil except over the sea-board line of pipes, or your line of pipes or the railroad?—A. Those are the avenues.

Q. And you can not state how much oil, comparatively speaking, compared to what is carried through your pipes, is carried now on railroads that substantially parallel your line of pipe. Do railroads continue to hold considerable traffic in oil when you parallel them?—A. Yes, sir; considerable traffic.

Q. You don't know what is the ratio between them?—A. I can not tell accurately, but I should think that on shipments of 10,000 barrels a day it might be in the ratio of 50 and 20; something like that.

By Mr. GOWEN:

Q. Fifty to the pipe and twenty to the railroad?—A. Fifty to the pipe lines and twenty to the railroads.

By Mr. BRECKINRIDGE:

Q. What is the capacity of your pipe leading to New York?—A. About 25,000 barrels a day; 24,000 or 25,000 barrels.

Q. What is the expense per barrel of pumping that oil through?—A. I do not know, sir.

Q. You have charge of the business, I believe?—A. I have charge of the operations of the line. I have not charge of the accounts, and do not enter into them.

Q. What charge do you make to shippers of oil through your pipe from the main source of supply, which source please name, to the New York market?—A. I can not say what the rate is; I do not know.

Q. What I want to get at is—?—A. The question of rates is out of my province.

Q. What I want to get at is, the relative ability of a railroad as compared with a pipe line to transport oil. If you have any information on that subject I would be glad to have you state it. The relative ability as between a railroad company and, for instance, your pipe line from your main source of supply to New York to transport oil as measured by cost per barrel?—A. It would depend upon a number of circumstances. Pipe lines can only be used for that purpose alone. A railroad could be used for many purposes other than transporting oil. The quantity of oil that the markets would demand would make a very material difference.

Q. What is the tonnage of a tank-car of oil?—A. The average capacity of a tank-car, I believe, is about 100 barrels, perhaps 300 pounds to the barrel.

Q. That would be 30,000 pounds, or 15 tons?—A. About that.

Q. Have they any means of getting freight for their tank-cars when they return west, having carried oil to New York?—A. They are of very little use other than for the transportation of crude oil.

Q. They could use it to carry back refined oil, could they not?—A. They could, by cleaning the car.

Q. Is the process of cleaning the pipe a difficult or expensive one?—A. Not very expensive; perhaps a couple of dollars a tank.

Q. So that with reasonable divergence from the point where they could get their load to proceed east, so as to enable them to transport the oil, they could carry back refined oil?—A. If there was a demand for it.

Q. So that the carrying of oil with a railroad would seem to be about on the same basis as carrying other bulky freight, would it not?—A. Carrying of refined oil?

Q. Both refined and crude?—A. I am not familiar enough with the business to be able to give an intelligent idea on that point; I should think not.

I should like to state, Mr. Gowen, on that point, that it might appear a very great absurdity that a railroad company should lose a very large tonnage to gain such a small tonnage. In the first place, there are several railroads, perhaps half a dozen of them, and whatever tonnage there was would necessarily be divided between them. In the second place, the right of way is obtained and often outside of the railroad, and it is of decided advantage to a railroad to have a pipe line along side of it because of the traffic it brings to it.

By Mr. BUCHANAN:

Q. Do you mean to say that not being able to stop the construction of the line, they had better have it close by?—A. Yes, sir: I do.

By Mr. GOWEN:

Q. That oil at present is not used commercially for refining, is it, with success?—A. No, sir; not that I know of.

Q. What is the difficulty with it?—A. I have heard it stated that good refined oil can not be made of it.

Q. On account of the sulphur or other deleterious substance?—A. That is as I understand it.

The CHAIRMAN. The committee will now take a recess for half an hour.

AFTER RECESS.

TESTIMONY OF HENRY M. FLAGLER.

HENRY M. FLAGLER, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. New York City.

Q. What is your age?—A. Fifty-eight.

Q. What is your business?—A. I am engaged in a number of business enterprises. I suppose for the uses of this committee my answer would be secretary of the Standard Oil Trust.

Q. When was the Standard Oil Trust formed?—A. I think in the early part of 1882.

Q. Prior to the formation of the trust, in what manner, if any, were you connected with the oil trade?—A. I was secretary of the Standard Oil Company of Ohio.

Q. Did you remain in that position until the formation of the Standard Oil Trust?—A. Yes, sir.

Q. Does the Standard Oil Company of Ohio still exist as an independent corporation?—A. Yes, sir.

Q. Do you still occupy the position of secretary?—A. No, sir.

Q. Who is the secretary now?—A. I am not able to answer that. I do not know.

Q. Where is the office of that company?—A. In Cleveland, Ohio.

Q. Had you any individual interest in the oil trade other than your connection with these companies?—A. No, sir.

Q. Were you a stockholder of the Standard Oil Company of Ohio as well as an officer?—A. Yes, sir.

Q. From what time; when did you first become such?—A. From its organization.

Q. In what year was that?—A. I think early in 1870.

Q. Were you not connected in any manner with the oil trade or with associations or corporations interested in or connected with the oil trade prior to the formation of the Standard Oil Company of Ohio?—A. I was a member of the firm of Rockafeller, Andrews & Flagler.

Q. Where was it located?—A. Cleveland, Ohio.

Q. What was their business?—A. Refining oil.

Q. That was a private partnership, was it not?—A. Yes, sir.

Q. Did it engage directly in the business of refining?—A. Yes, sir.

Q. Did that firm erect refining works or did they buy them from some one else?—A. They bought works from two firms, one of which I believe was Rockafeller & Co., and the other Rockafeller & Andrews. They succeeded those two firms.

Q. Were you interested in either before you became a member of the new firm?—A. I was not.

Q. Were you in business with them or connected with them in any way?—A. I was not.

Q. When your own firm came into existence or after it had gone into business what was the extent of its refining capacity?—A. As well as I can recollect 600 barrels a day of crude oil.

Q. Your firm practically, therefore, formed the Standard Oil Company of Ohio, and turned its works over to that company?—A. Yes, sir.

Q. And accepted stock in that company in consideration of its therefore private ownership in the firm?—A. Yes, sir.

Q. What was the capital of the Standard Oil Company of Ohio?—A. One million dollars.

Q. How much of that was paid in?—A. One million dollars.

Q. In cash, or were the works taken at a certain valuation?—A. The capital was paid in cash and the works were paid for in cash.

Q. What price was paid for the works at that time; can you tell me?—A. I can not.

Q. What was the capacity of the works at that time—at the time of the formation of the Standard Oil Company?—A. I should say about 1,500 barrels a day.

Q. Where were you then receiving crude oil from?—A. Pennsylvania.

Q. From which field?—A. From what is now known as the lower district. Oil City, I think, was the principal shipping point.

Q. How did you then receive it?—A. By the Atlantic and Great Western Railroad, as it was then known.

Q. How did you ship your refined oil to the sea-board, if you shipped any to the sea-board?—A. By the Atlantic and Great Western and the Erie, and by the Lake Shore and New York Central, the four companies forming two lines.

Q. I think you stated the Standard Oil Company was formed in 1870?—A. I think it was early in 1870.

Q. At the time of its formation was the Standard Oil Company of Ohio interested in or did it own any other refining works than that of its own company of Cleveland?—A. No, sir.

Q. Was it at that time interested in the production of oil?—A. No, sir.

Q. It was simply a manufacturer or refiner?—A. Yes, sir.

Q. You purchased oil from those who produced it, refined it at your works, and sold it as refined oil?—A. Yes, sir.

Q. Did you at that time have connected with your works facilities for utilizing what might be called by-products of petroleum—for taking off naphtha and benzine?—A. Yes, sir.

Q. After those volatile substances were taken off and the refined oil taken off what remaining by-products did you make or how did you utilize the residuum?—A. It is difficult for me to tell the time at which those by-products one by one came into practical use and value, but as near as I remember the whole residuum was known as tar in those days and was used as fuel.

Q. When was that?—A. About the year 1870.

Q. Now, coming from the year 1870 down, when did the Standard Oil Company of Ohio first increase its business beyond that of which you have just spoken, namely, as a refiner of oil in Cleveland?—A. As near as I can recollect in 1873.

Q. In what manner was that extension made?—A. By negotiations with other refiners at Cleveland and the consolidation or purchase of those refineries from the former owners, and a consolidation with the refineries formerly owned by the Standard Oil Company.

Q. Still under the name of the Standard Oil Company of Ohio?—A. Yes, sir.

Q. Did you, up to the time of which you now speak, acquire any other corporate rights or powers to enable you to increase your business other than the charter from the State of Ohio?—A. No, sir.

Q. Do you remember what was called the South Improvement Company?—A. Yes, sir.

Q. We have had in evidence here some facts relating to it. Who composed that company?—A. I can not recall the names of all the gentlemen who were supposed to be interested in it.

Q. Tell us, to the best of your knowledge?—A. The South Improvement Company was a matter brought to Mr. Rockefeller's and my attention perhaps six months before it was known publicly. Perhaps I shall ramble if I undertake to tell you all about it.

Q. Precisely what I want to know is the names of all whom you knew to be connected with it?—A. William G. Warden, Charles Lockhart, William P. Logan, John Logan, J. D. Rockefeller, William Rockefeller, O. H. Payne, and myself are the only names I recall.

Q. Was Mr. Bostwick connected with it?—A. I do not remember whether Mr. Bostwick was or not.

Q. Was Mr. Archbold?—A. No, sir.

Q. Mr. Brewster?—A. No, sir.

Q. Now, from the year 1872 to 1873, if you will kindly in your own way, and with some regard to the chronology of events, tell us how and in what manner the Standard Oil Company enlarged its business or affiliated to other industries and other businesses and who they were, until you come down to the period of the formation of what is now known as the Standard Oil Trust?—A. Before answering that question allow me to say a word more in regard to the South Improvement Company.

Q. Certainly.—A. It is only this, that neither of the Messrs. Rockefeller, Colonel Payne, or myself, or any one connected with the Standard Oil Company, ever had any confidence in or regard for the scheme known as the South Improvement Company. We did not believe in it, but the view presented by other gentlemen was pressed upon us to such an extent that we acquiesced in it to the extent of subscribing our names

to a certain amount of the stock, which was never paid for. The company never did a dollar's worth of business and never had any existence other than its corporative existence, which it obtained through its charter. Through its president it negotiated certain railroad contracts, which, as I remember now, were signed by the company and by the officers of the railroad. Those contracts were held in escrow a few weeks and were destroyed or canceled by mutual consent.

Q. Who presented these views to you gentlemen? Who was the person that had charge of this South Improvement Company's scheme?—A. I think Mr. Warden and the Messrs. Logan were the great leaders in the South Improvement Company policy,

Q. Do you mean William G. Warden?—A. Yes, sir; of the present firm of Warden, Frew & Co.

Q. And of the late firm of Warden, Lockhart & Co.?—A. There never was a firm of Warden, Lockhart & Co.; only Warden, Frew & Co.

Q. And that is one of the firms in the interest of which Standard certificates have been issued, is it not?—A. That firm at a later date sold to the Standard.

Q. But it is the same Mr. Warden who was a member of the firm of Warden, Frew & Co., whose works were acquired?—A. Yes, sir; by the Standard Oil Company, some years subsequent to the time when the South Improvement Company was supposed to have an existence.

Q. Now, the South Improvement Company's charter had been obtained many years before that, had it not, for another purpose?—A. I knew nothing of that.

Q. You knew the fact, did you not, that the charter was repealed by an act of the legislature of Pennsylvania?—A. If I ever knew it I have forgotten it.

Q. I would like to know whether these contracts that were negotiated between the South Improvement Company and the Pennsylvania Railroad Company had been negotiated and were in existence before you gentlemen who now constitute the Standard Oil Company joined it?—A. I am unable to answer that question. I can not recollect.

Q. Can you tell us what the capital of the South Improvement Company was?—A. No, sir.

Q. Can you remember what each of you subscribed?—A. No, sir.

Q. Was it millions or hundreds of thousands—I mean the total capital?—A. I should say thousands; it was not anything like a million of dollars. As I say, it never had any use for money, for it never was in existence, anything more than the formation of these contracts.

Q. From that date up to the time of the formation of the Standard Oil Trust I wish you would kindly let us know how this business, which the public generally calls the Standard Oil Company, how it acquired additional property, at least with reference to the time and the names of the companies, and by whom it was acquired?—A. I am unable to give you the names of the companies. I recall only in a general way this fact that, taking them one by one, negotiations were entered into from time to time between some of us, representing the Standard Oil Company, with its capital of a million of dollars, and other refiners, competitors of ours. These negotiations resulted in an agreement, or rather a valuation of these different properties, a valuation which should determine the sum at which they should be sold to the Standard Oil Company. The consideration agreed to be given those persons for these refineries was Standard Oil stock at par or a check.

Q. That is, the Standard Oil Company of Ohio?—A. Yes, sir. I know that in some cases some of the parties took money in preference to tak-

ing stock, feeling, I presume, that they would rather embark in other business. The capital stock of the Standard Oil Company was increased a million and a half of dollars. A large percentage of that increase was used in payment for the purchase of these refineries of which I have spoken. As I remember now, less than \$100,000, but approximating \$100,000, was the sum left of the million and a half of increase, which was not required for the payment for these properties. That difference, deficit if you call it such, was subscribed for and paid into the treasury of the company in cash at par.

Q. Well, now, what other companies than the Standard Oil Company of Ohio, did you and Mr. Rockefeller and your associates become interested in, in the oil trade, or in the refining or transportation of oil, before the formation of the Standard Trust?—A. I was going to add. The increase of capital of which I have just spoken occurred in the year 1873. The original Standard Oil Company was organized in the early part of 1870. The increased capacity and the acquisition of the Cleveland refineries was, as I remember it, in 1873. It remained at that until 1875 or 1876, according to the best of my recollection. Then was consummated a negotiation which had been pending for some two years, perhaps, with certain parties in Pittsburgh, Philadelphia, and New York, by which a value was agreed upon, and their refinery property was purchased and the capital of the company was increased a still further sum of a million, and they were paid for these properties, and money which they contributed, in the stock of the Standard Oil Company of Ohio.

Q. Making three millions and a half?—A. Making three millions and a half; yes, sir.

Q. What other companies?—A. It is impossible for me now to say.

Q. I do not mean what other companies were bought, but what other companies, which were in existence at the time of the formation of this Standard Trust, did you gentlemen become interested in?—A. Many of these companies were purchased for cash long before the creation of the Standard Oil Trust.

Q. Yes, but more than those which you have now mentioned.—A. I have not given you the names of any of them.

Q. I do not mean the names of any companies bought up and acquired by the Standard Oil Company of Ohio, but the names of other companies which you gentlemen became interested in which remained as independent companies up to the formation of the Standard Trust?—A. It would be impossible for me to give you that.

Q. For instance, United Pipe Lines—you gentlemen became interested in that, did you not?—A. Yes, sir.

Q. These were the lines which collected the oil in the oil region and delivered it to the railroads; is not that so?—A. Yes, sir; that was the largest pipe line, as I remember, in existence at the time we purchased an interest in it.

Q. It was a corporation, was it not?—A. I think not. At the time, if I remember, it was a copartnership.

Q. Known by the name of United Pipe Line?—A. Yes, sir.

Q. Were you interested in that?—A. Only by reason of my interest in the Standard Oil Company.

Q. The Standard Oil Company acquired an interest in it?—A. Yes, sir.

Q. The majority interest?—A. No; only a third.

Q. Who owned the other two-thirds?—A. Vandegriff and Vaughn and—well, I can not recall the names. The purchase by the Standard interest was of one-third of the United Pipe Line.

Q. Have you any statement of the number of companies, associations, or partnerships that were taken into the Standard Oil Trust when it was formed, or in respect of stock in which the Standard Oil Trust certificates were issued?—A. I have not.

Q. Can you tell me who they were?—A. No, sir.

Mr. GOWEN (to Mr. Dodd). They are in this book, are they not?

Mr. DODD. Yes, sir.

Mr. CHOATE. You will show the witness the printed book.

Mr. GOWEN. Certainly.

Mr. DODD. There is the trust agreement in the book, and they are all mentioned in it.

By Mr. GOWEN :

Q. Mr. Flagler, will you please look at this, so that you may verify it under oath [printed book shown to witness entitled "Report of Investigation Relative to Trusts, for the Senate of New York, in the year 1885," pages 455 and 456]?—A. (Examining book.) There are ten names here that I have no knowledge of or recollection of, and if they had been placed before me as being competitive concerns, I should have been as likely to think they were such as that they were part of the ownership of the trust.

Q. But the rest of the names you remember?—A. The rest I can identify.

Q. State if these lists are not a part of what was your Standard Oil agreement.—A. Yes, sir; that I admit.

Q. This may be considered, then, as a proper copy of your Standard Oil Trust agreement?—A. According to my best knowledge and belief.

Q. Have you any doubt, or do you agree, that all the companies, firms, individuals, or associations named in the trust agreement, as those in respect of which stock was issued by the Standard Oil Trust, were correct?—A. I have no reason to doubt it, except my ignorance of these particular names.

Q. How many of these various associations or corporations and trusts were you yourself personally interested in, either as stockholder, partner, or otherwise, up to the formation of the trust?—A. Interested in by a virtue of what?

Q. Owning stock in them, owning an interest in them—stock in them if they were corporations, or interest in them if they were firms.—A. I have no recollection that I ever had any stock certificates except in the Standard Oil Company of Ohio.

Q. Were you not interested in any of the others?—A. I was going to add that the ownership of the stock of these various other companies, which I suppose are stated correctly here—the ownership of those stocks was in the hands of a few certain trustees. The names here given are Vilas, Keith, and Chester.

Q. Those three gentlemen as trustees held stock certificates or other evidences of ownership in a number of other companies?—A. Yes, sir; in, I suppose, all these companies.

Q. And you were interested in those?—A. Yes, sir; by virtue of an agreement made between those trustees and the stockholders of the other companies.

Q. Was the trust which those three gentlemen had evidenced by any instrument in writing?—A. Yes, sir.

Q. Can you tell by looking over that list in what other corporations, associations, or firms those three gentlemen, as trustees, were holders of stock?—A. No; I can not.

Q. You think it would embrace nearly the whole of them, do you not?—A. Yes, sir; I think so.

Q. Can you tell, up to the time of the formation of the Standard Oil Trust agreement, the extent in dollars of capital that was represented by the trusts that these three gentlemen held?—A. No, sir.

Q. Can you get at it in this way: Can you tell what amount of Standard Oil Trust certificates was issued in respect to ownership of stock which these three gentlemen held as trustees?—A. No, sir; I can not.

Q. You can give it roughly—in round numbers, can you not?—A. I have no recollection whatever of the relative values of the properties held by these trustees, comparing it with the property and assets of the Standard Oil Company of Ohio.

Q. But comparing it with the amount of certificates which were issued under the Standard Oil Trust agreement, how much money did it represent?—A. For the whole?

Q. For the whole held by these three gentlemen?—A. That I am unable to answer.

Q. What amount of certificates of the Standard Oil Trust were issued at or shortly after the formation of the trust?—A. About \$70,000,000—just \$70,000,000.

Q. Can you give any idea what proportion of that \$70,000,000 was issued in respect of the certificates of stock or other evidences of interest which these three gentlemen as trustees held?—A. I can not.

Q. Did it amount to \$50,000,000?—A. I can not answer.

Q. Who could tell us that?—A. I have no idea who could.

Q. You are the secretary of the Standard Oil Trust?—A. Yes, sir.

Q. Did not you keep in your office a record showing these facts?—A. Yes, sir.

Q. That record still exists, does it not?—A. Yes, sir.

Q. And that record would show the destination and receiver of every trust certificate of the Standard that was issued out of this \$70,000,000, would it not?—A. Yes, sir.

Q. Did you have these trust certificates kept, like stock certificates of a corporation, with a stub requiring a receipt from the person who received it?—A. Yes, sir.

Q. Is that book in the possession of your department or of the treasurer's department?—A. That I am unable to say; but I should say on general principles that it is in my department. It is a book that is in charge of a man who attends to that sort of work.

Q. You do not give your personal attention to these details?—A. I do not.

Q. What clerk or other subordinate officer relieves you from that work?—A. A man by the name of W. H. Beardsley.

Q. He would know.—A. He might.

Q. I ask you frankly, have you any objection to the production of that book and the information it contains?—A. Not the least.

Q. Rather than annoy you to produce the book, would you agree to send us a copy of the list?—A. Of the persons to whom shares of Standard Oil Trust were issued?

Q. And with respect to what kind of property and in what name they were issued?—A. That knowledge would not exist in the book which is in my hands. I have charge of nothing but books which relate to the corporation. The commercial books I have never had anything to do with.

Q. Who has those books?—A. Some of our departments; I do not know who does have them.

Q. You can furnish, then, a statement of the persons to whom the certificates of interest in the Standard Oil Trust were issued?—A. Yes, sir.

Mr. CHOATE. You include corporations under the name persons?

Mr. GOWEN. Yes.

The WITNESS. In other words, as I understand, it is a list of the names comprising the sum total of the \$70,000,000.

Mr. GOWEN. Yes.

The WITNESS. That is a very easy matter.

Q. Has the capital of the trust been increased since its formation?—

A. Yes, sir.

Q. What is it now?—A. About \$90,000,000.

Q. Have the extra \$20,000,000 been issued for subsequently acquired property?—A. In part.

Q. What is the present market value, can you tell us, of those certificates?—A. About \$160 a share.

Q. What was the par value?—A. One hundred.

Q. Therefore a stock of \$90,000,000 would be worth between \$144,000,000 and \$160,000,000?—A. Yes, sir.

Q. One hundred and forty-four millions of dollars would represent the present capital judged by the market value of the property that is held in the trust?—A. At \$160 a share; yes, sir.

Q. When that trust acquired stock in other corporations, was that stock retained in the control of the company to represent the ownership of the other corporations, or were the other corporations wound up and the property transferred in block to the Standard Oil Trust?

The WITNESS. Will you kindly repeat that?

Q. When the Standard Oil Trust acquired by purchase property represented by stock of other corporations, was that stock so purchased held as a distinct asset as stock in the treasury of the trust, or was the company whose property was represented by such stock turned bodily over and the stock canceled and the property became the property of the Standard Oil Trust?—A. All stock was held as the stock of the company owning the property.

Q. In other words, the Standard Oil Trust did not become the owner or manager of any property or business, but simply the custodian of the stock or other evidences of ownership in such property?—A. That is correct.

Q. And in all cases the other corporations remain intact as independent corporations?—A. I presume that they do. Some companies may have gone into liquidation and sold their properties to other companies, but I have no knowledge of any such case.

Q. And as between the company and the Standard Oil Trust, in no case did the Standard Oil Trust become the owner or manager of property as such, other than such as was represented by stock or bonds, or other evidences of ownership?—A. It did not.

Q. It is not a business corporation then?—A. It is not doing business in that sense.

Q. Is the Standard Oil Trust not the owner of any real estate as a trust?—A. No, sir.

By the CHAIRMAN:

Q. Who is the owner of the building occupied by the Standard Oil Trust in New York?—A. The Standard Oil Company of New York.

By Mr. GOWEN:

Q. The management, therefore, of all these other companies in which the Standard Oil Trust is entitled to the management by reason of owning a majority of the stock, is controlled through that ownership and exercised at the elections of those companies by voting upon the stock?—A. The management of these several companies is through individuals elected to their positions as boards of directors, such boards being elected by a vote of the stock which the company—

Q. Which the trust owns?—A. In part; there are many cases where individuals own stock, the trust not owning the whole. Of course the stock owned by the trust is voted upon.

Q. Who votes that?—A. That varies according to circumstances. Proxies are issued to individuals to vote that stock.

Q. Who signs the proxies? Does it require the whole number of trustees?—A. No, sir; a committee of three of the trustees has been created by all the trustees authorizing that committee of three to either attend in person or issue proxies authorizing other persons to.

Q. Did you know, Mr. Flagler, anything about the American Transfer Company?—A. Very little.

Q. Were you ever interested in it as an individual?—A. Not according to the best of my recollection.

Q. Was the Standard Oil Company of Ohio interested in it as a stockholder or by other ownership?—A. My recollection is that the American Transfer Company was not a corporation but was a name given to a piping business originated and owned by J. A. Bostwick & Co., and that it came into the Standard Oil Company.

Q. Of Ohio?—A. Of Ohio; and that Mr. Bostwick's interest was purchased by the Standard Oil Company of Ohio.

Q. Can you tell us what year?—A. My recollection is that it was in 1873, or possibly not until 1876.

Q. Do you remember the period at which the Tide-Water Pipe Line Company opened its line from the principal oil field to the lines of the Reading Railroad near Williamsburgh?—A. No; I merely recollect the fact but not the time nor the date.

Q. At that time what share, to the extent of the proportion of the whole, had been secured by the Standard Oil Company of Ohio and the various other oil companies and associations of the entire oil trade; that is, the various other associations who now are in the Standard Oil Trust?—A. It would be impossible for me to answer the question.

Q. Better than I could or anybody else?—A. I expect you know more about it than I do.

Q. What proportion of the oil trade, so far as concerns the refining of oil or shipment of crude oil, if any such is done, is controlled now by the Standard Oil Trust for the companies in that trust?—A. That I can not state either.

Q. Have you never looked into that question?—A. Never.

Q. Who is the statistician of your association who knows those things?—A. That I do not know.

Q. Do you not know that it amounts fully to 85 per cent. of the whole?—A. I do not.

Q. What do you think it is?—A. I have not any thought. I would simply say this, that for perhaps eight years I have given absolutely no attention to the details of our business, and I know probably less about all these matters than almost any man connected with the trust.

Q. Who do you think among your associates has that information; because I do not want to annoy you unnecessarily. I want to get at

that fact as speedily and quickly as I can, and if you can tell us who possesses the information I will not trouble you further about it!—A. Well, I have never read his testimony, but I should say that Mr. J. D. Rockefeller, having been called a number of times, has probably informed himself of all these matters, and he probably knows.

Q. He is here, is he not?—A. He is not here.

Q. He is to be here, is he not?—A. I do not know; he is not at all well just now.

Mr. GOWEN (to Mr. Dodd). Will he be here?

Mr. DODD. If he is able to come when you want him, Mr. Gowen, he will try to get here.

Q. Now, Mr. Flagler, I want to call your attention to a meeting or a conference which took place at Saratoga between officers or agents of the trunk lines and gentlemen connected with your interest at or about the time of the opening of the Tide-Water Pipe Line as a competitor of your lines or of your business. Do you recall such a conference?—A. I have no recollection of it.

Q. Do you not remember meeting at Saratoga—you and Mr. Bostwick, I think, and Mr. Brewster—with gentlemen connected with the New York Central, the Erie road, the Pennsylvania, and the Baltimore and Ohio?—A. I do not.

Q. Who had charge of your interests, or those represented by you, on the question of securing rates with the railroads for the transportation of oil? Who had charge of that transportation question?—A. The different gentlemen who administered the different departments of the business.

Q. Well, who had charge of that transportation department—the question of rebates?—A. No one man.

Q. Name any?—Mr. Archbold, and Colonel Thompson.

Q. Who is Colonel Thompson?—A. He is connected with the Standard Oil Company of Ohio. He is one of its officers, I think.

Q. But who had charge of the rates on east-bound crude oil upon the trunk line. Who had charge of that question?—A. No one man.

Q. Well, who had charge of any part of it?—A. Well, that would be impossible for me to answer.

Q. You surely—A. We had not our business under departments as such except perhaps, for instance, in thinking of Colonel Thompson and Mr. Archbold, I recalled the fact that those gentlemen gave their personal attention to the question of the distribution of oil, and according to the best of my recollection, Mr. Archbold was more especially intrusted with the making of rates from time to time on shipments by different railroads.

Q. I do not want to annoy you unnecessarily and I will not trouble you any further about that if you say you have no recollection whatever in regard to it?—A. I have no recollection whatever of any such meeting. I am confident that I was not present at any such meeting.

Q. Have you any knowledge of the fact that a discussion was taking place between those in your interest and the trunk line as to what treatment should be accorded to the Tide-Water Pipe Line when it entered the field as a competitor?—A. I do not recall any such discussion.

Q. Had you any control or charge of any questions of that kind?—A. I had to do with such questions; yes, sir.

Q. Do you know that after the introduction of the Tide-Water Pipe Line as competitor in the movement of oil and the refining of oil, the rates upon the trunk lines were very considerably reduced?—A. I do not now recall the fact. I should say that in a general way they were re-

duced; but to what extent, from what figure, and to what figure, I have no recollection.

Q. Have you no knowledge of the minimum to which that reduction was carried?—A. I have no recollection of it.

Q. Do you not know that it was reduced as low as 10 or 15 cents from the oil field?—A. I do not.

Q. Have you any means of refreshing your recollection upon that point?—A. None that I think of.

Q. At that time who controlled, or in what name was the refining interest which now belongs to the Standard Oil Company which is located in the State of New York? Who were the parties who controlled that?

The WITNESS. Can you give me the year?

Mr. GOWEN. About 1830 or 1881 or 1882.

The WITNESS. Mr. William Rockefeller was at that time, and for some years before, the representative of what is called the Standard Oil interest in New York, and in a general way I should assume that he would be more particularly charged with it?

Q. What refining interest, or what refineries, rather, to confine it to the actual establishments—what refineries in or around the harbor of New York did the Standard people or their allies then control? If you can give any other of your gentlemen who can give me this information easier I will not trouble you further but take him, because all I want is to get at the facts.—A. (Looking at book.) Well, here is Charles Pratt & Co. You are speaking now of the year 1882?

Q. Yes, and for a year or two prior?—A. I am limiting my recollection now to the creation of the trust. If you will allow me, I will limit it to 1882.

The Sone & Flemming Manufacturing Company; the Bush & Denslow Manufacturing Company; the Devoe Manufacturing Company; The Empire (turning to Mr. Archbold). Is not that correct?

Mr. ARCHBOLD. Yes; the Empire, but not the Devoe.

Mr. GOWEN. Oh, well, if you are not familiar with them I will not pursue the matter further with you.

Q. You are acquainted, are you not, with what is called the Cotton Seed Oil Trust?—A. I am acquainted with a few gentlemen interested in it, but not with the trust itself.

Q. Are you interested in it?—A. I am, unfortunately.

Q. In what capacity?—A. As a shareholder.

Q. As an officer?—A. No, sir.

Q. Who are the officers of the Cotton Seed Oil Trust?—A. That I can not tell you; or, to make it more plain, I am unable to tell you. But I can tell you the name of the president.

Q. Who is he?—A. He is a namesake of mine, J. H. Flagler.

Q. Is he a relative of yours?—A. If he is, it is so far removed that we could never trace the connection.

Q. Are there any other trustees of the Standard Oil Trust interested in this Cotton Seed Oil Trust?—A. I do not know of any person who is even a shareholder of the Standard Oil Trust who is also a shareholder in the Cotton Seed Oil Trust, except myself.

Q. Are there any business relations between any of the companies interested in the Standard Oil Trust and the Cotton Seed Oil Trust?—A. Not to my knowledge.

Q. Do you know who are the directors or officers of the American Cotton Seed Oil Trust?—A. As I have already said, I only know the name of the president.

Q. Where is Mr. J. H. Flagler's residence?—A. In New York City.

Q. Does this trust do business in New York under the name of the Cotton Seed Oil Trust?—A. That I do not know.

Q. Very well, I will not ask you farther about that, then. I want to get at now the ownership of tank cars for the transportation of petroleum. Does the Standard Oil Company of Ohio or any of your companies that you know of own tank cars?—A. Yes.

Q. Which?—A. I can not tell you which.

Q. Who among you gentlemen has charge of that subject and could give that information better than you, if there is any one?—A. Any one can answer better than I can—Mr. Archbold for one, I should say.

Q. In your connection with this business have you had anything to do with the practical working of refining as a refiner? Do you understand that?—A. I do not.

Q. Has your department been that of finance and accounts?—A. No.

Q. When you were a younger man and went into this business?—A. For a number of years I used to spend about half of each day at the refinery when I lived in Cleveland; but I have not been inside of a refinery for ten years, probably.

Q. What department of your company, or of any of your companies, has charge of the local distribution of petroleum in the United States? Is there not a separate department for that?—A. I do not know; if there is, I do not know it, nor do I know who has charge of it.

Q. Who among you gentlemen would be likely to know that fact?—A. Mr. Archbold, I think, knows a great deal more than I do about it.

Q. Do you not know that the territory of the United States is divided into districts for the purpose of distributing and marketing refined oil?—A. I do not.

Q. And that those districts are numbered and designated in some way?—A. I do not.

Q. How and in what manner do these various refining companies and interests that are affiliated to the Standard Oil Trusts—how do they unite with each other upon the subject of marketing refined oil in the United States?—A. I am unable to answer the question.

Q. Is there not to your knowledge a department of distribution?—A. There is not.

Q. There is not?—A. Not to my knowledge.

By Mr. SMITH:

Q. Mr. Flagler, is the Standard Oil Trust interested in railroads?—A. No, sir.

Q. Are you?—A. Yes, sir.

Q. In how many?—A. You mean as stockholder?

Q. Stockholder or officer.—A. Two.

Q. As an officer?—A. Well, that question I should have to ask you to explain. I believe it is now considered that a man who is merely a director is not an officer. If Mr. Gowen will analyze the term officer I will answer the question categorically. I am a director in two and an officer in one.

Q. What are the names of those companies?—A. The Chicago, Rock Island, and Pacific Railway I am a director in. I am also a director in and president of the Jacksonville, Saint Augustine and Halifax River Railroad. Excuse me; I was wrong in saying *two* railroads. I should have said *three*, for I am a director also in the Tampa, Jacksonville and Key West Railroad.

Q. That is all?—A. That is all.

Q. The Standard Oil Trust is the proprietor of one of the pipe lines to the sea-board, is it not?—**A.** It is the owner of the stock, or a portion of the stock, of a company which owns pipe lines to the sea-board.

Q. Does this Standard Oil Company pay any taxes?—**A.** Which Standard Oil Company?

Q. Or the Standard Oil Trust?—**A.** The Standard Oil Trust does not pay a dollar. The company which owns the property pays the taxes.

Q. On real and personal?—**A.** I can not tell you. It depends upon the laws of the State. I have never had to do with the taxes of any of the corporations.

Q. If I understood your testimony right you stated that your stock was considerably above 100 per cent., did you not?—**A.** Yes, sir.

Q. If it is within your province, what were the dividends on that stock for 1887?—**A.** For 1887?

Q. Yes; the last fiscal year.—**A.** Ten per cent.

Mr. GOWEN. That is, upon the trust certificates you mean?

The WITNESS. Yes.

By Mr. SMITH:

Q. That includes the amounts above par also?—**A.** No, sir.

Q. Only on the par value?—**A.** You can not pay dividends in any other way that I know of.

Q. Why do you keep them up to one hundred and sixty or whatever the statement was?—**A.** I do not do it.

Q. You do not do it?—**A.** I do not do it.

Q. How do they get there?—**A.** It would be difficult to answer the question.

Mr. CHOATE. Mr. Smith does not probably understand that these stocks are freely bought and sold. They are stocks that can be bought and sold in the market by anybody who has money to invest.

Q. Do you believe that a 10 per cent. dividend would, as the phrase goes, bull those bonds to that amount?—**A.** Oh, yes; that gives over 6 per cent. on the amount invested, and when money is loaning at the low rates prevailing at present that is not a bad investment for a man to put his money in.

By Mr. GOWEN:

Q. The dividends declared on the certificates of the Standard Oil Trust must, of course, always be limited by the amount you receive in dividends from the other companies whose stock you hold?—**A.** Certainly.

Q. Have you declared as dividends in the Standard Oil Trust the full amount of money that you have received as income from the various securities you hold?—**A.** Not quite.

Q. How much undivided capital has been accumulated in the trust in addition to that which has been distributed as dividends?—**A.** I am unable to answer the question in dollars and cents. I only know this, that since the creation of the trust the dividends from the time it was created to the payment of the last dividend have been a little less than 7 per cent. on the par value of the certificates, or about 7 per cent., I should say.

Q. Dividends that have been declared?—**A.** Yes, sir; and the earnings have been a little less than or about 13 per cent.

Q. Is the difference between the average of 7 per cent. declared and the average of 13 per cent. that has been received retained in the treasury?—**A.** Yes, sir.

Q. In addition to the dividends in cash, have any stock dividends been declared?—A. Yes, sir.

Q. Were those stock dividends declared to represent the surplus of cash that was divided or were they declared upon any account?—A. The surplus earnings, and to a limited extent, as I remember, the increased values of certain property.

Q. In other words, as a merchant would do, you take an inventory of the value of your property every year, do you not?—A. Yes; twice a year.

Q. And claim and exercise the right of considering the increase in that as a profit?—A. Perhaps that is correct; that is one way of stating it, at least.

Q. I do not say there is anything wrong in it. I do not mean to infer that.—A. No; there is nothing wrong in it.

Q. This average of 7 per cent. was a cash dividend was it?—A. Yes, sir.

Q. What average of stock dividends were declared in addition to the cash dividends?—A. May I ask some one to refresh my memory?

Mr. GOWEN. Certainly.

The WITNESS (after consulting Mr. Archbold). Twenty per cent. in the entire period.

Q. What is that entire period?—A. A little over six years, making an average of about 3 per cent. annually. The cash and stock dividends together amount to about an average of 10 per cent.

Q. And you have in addition to that a surplus of undivided dividends in the treasury not altogether represented by the stock dividends?—A. Yes, sir.

Q. Now, Mr. Flagler, this Standard Oil Trust is simply a trust to hold certain personal property represented by stock or bonds or other certificates, as you have explained, and it owns the control of a vast number of other corporations and associations, firms, etc., who are engaged actively in the business of manufacturing and refining oil, does it not?—A. They are not all corporations.

Q. Do you have a department or committee in your trust that exercises a supervision over and requires a return annually or otherwise from these various companies in order to see how much they are making and how their business is being conducted?—A. Yes, sir.

Q. Who is at the head of that?—A. The trustees comprise the department.

Q. The whole of the trustees?—A. Yes, sir.

Q. Their names are given in that agreement, are they not?—A. I do not know; I suppose so.

Q. Can you tell us who the trustees of the Standard Oil Trust now are?—A. (After consulting Mr. Archbold) J. D. Rockefeller, William Rockefeller, J. D. Archbold, Benjamin Brewster, Henry H. Rodgers, Charles Pratt, W. H. Tilford, O. B. Jennings, and H. M. Flagler.

Q. Now, the supervision over the work of each of these departments in respect to receiving these returns is exercised by these nine gentlemen as a body of trustees, is it?—A. Well, it is a supervision which is merely advisory. No power as such is ever used. I think perhaps your word supervision covers it and is the broader and better word to use.

Q. Do you not compel annually, or semi-annually, or even monthly statements to be sent to the head office showing the result of the workings of these various corporations?—A. Yes, sir.

Q. Do you require an annual balance-sheet from each of these companies showing the result of their year's business?—A. I can not say; I presume so.

Q. You know as a business man that such things are usually required in similar cases?—**A.** What I mean is that I do not think those balance sheets come to the trustees; I think they go to the commercial department.

Q. The question of earning capacity of this combination of capital can not be measured by what dividends the Standard Oil Trust declares, can it?—**A.** If there is added to it that which is not declared, yes.

Q. No; that would only be an estimate of what the Standard Oil Trust received, would it not?—**A.** Please state that again.

Q. I mean the result of the profit of each one of these industrial establishments; take Pratt & Co. or the Astral Oil Company, for instance?—**A.** Take them all.

Q. That is not gauged by the amount of money you received from them, because they may have made much more money than they declared as a dividend?—**A.** It is not the custom, I think, for them to retain in their treasuries anything above their working capital.

Q. But will not their balance-sheets show in each case what each one of them has made?—**A.** Certainly.

Q. May not some of them have had some indebtedness?—**A.** I do not know of any such case.

Q. Are not many of them engaged in extensive alterations and additions to their works to meet the constantly-increasing requirements of their trade?—**A.** Oh, yes.

Q. Well, if they are not in debt that money must necessarily be supplied by their earnings, must it not?—**A.** Yes, sir.

Q. Is it not therefore possible that many of these corporations who declare to you as their stockholder a 10 per cent. dividend may have made 30 or 40 per cent. in the course of the year?—**A.** It is the declaration of their earnings that makes the basis of the net earnings of the Standard Oil Trust.

Q. No.—**A.** Yes.

Q. It is the declaration of their dividends?—**A.** No, sir; it is not. For, instance, a company may make, if you please, \$100,000. There is no question about its having been made. It may pay into the trust \$70,000, reserving \$30,000.

Q. For other purposes?—**A.** For any use that is necessary. Now, that \$100,000 is the amount made by that company, and it is because of the necessity of increased growth of these stock companies and their greater demand for the use of money that makes it impracticable for the Standard Oil Trust to divide in cash to its stockholders the entire earnings of all these companies.

Q. But we will take a company, for instance, like the National Transit Company. Your Standard Trust interest in that is represented by stock of that company; is it not?—**A.** Yes, sir.

Q. Now, suppose that company has made in the course of a year half a million of dollars and has declared only \$250,000 cash dividends. You, as a stockholder, receive your proportion of that \$250,000, do you not?—**A.** Yes, sir.

Q. But you do not receive any proportion of that which they have not declared as a dividend?—**A.** I thought that I had made myself understood. When I say that the net earnings of all the companies, firms, and associations owned by the Standard Oil Trust have averaged 13 per cent. for the period of its existence, I mean just that.

Q. But you mean more than that?—**A.** I mean just that; that that is the entire sum total of the earnings of all these companies without any reference to the dividends they may have paid over.

Q. But how can you as a trust divide money which you have not received?—A. I did not say that we had received that. We divided 7 and retained a margin of 3 per cent.

Q. But you have not received that?—A. We have not divided it either.

Q. But you have not received it?—A. I am not able to answer that, whether we have received it or not. I understood your two questions to be, first: What have been the aggregate net earnings of corporations whose stock is owned in whole or in part by the Standard Oil Trust; that is to say, what the earnings of the several corporations have been? Now, I answer that by saying that they have been about 13 per cent. per annum on the par value of all the shares issued by the Standard Oil Trust.

Now, the other question was: What average dividends in money have been paid by the Standard Oil Trust? I answer that simply by saying about 7 per cent., as I remember—a little less than 7 per cent., which leaves a difference of 6 per cent.

Q. And of that 6 per cent. a little over 3 per cent. has been declared in stock dividends?—A. Yes, sir.

Q. And those stock dividends, as stock is selling at 160, are worth a great deal more than the nominal amount would be?—A. Of course, they are worth more than the actual money would be.

By Mr. BUCHANAN:

Q. There has been some confusion in the facts before the committee, arising, perhaps, from the circumstance that witnesses have not been accurate in the use of terms. Will you give me the exact corporate name of this trust?—A. The Standard Oil Trust.

Q. Is there a corporation known as the Standard Trust?—A. No, sir.

Q. It is the Standard Oil Trust?—A. There is no corporation; the Standard Oil Trust is not a corporation.

Q. It is not a corporation?—A. No, sir.

Q. From whence does it derive its being and by what law does it exist?—A. By virtue of a contract entered into by and between the individuals who created the Standard Oil Trust.

Q. And by individuals you mean corporations as well as individuals?—A. Yes, sir.

Q. And included in that list are some corporations known as Standard Oil Companies?—A. The individuals include those who comprise the entire stockholders of the several corporations, and the names of the corporations also appear, as I remember it.

Q. I beg your pardon, but I am not so much now after the position of this aggregate of persons or corporations as I am to get distinctly in my mind the information as to the names Standard Trust, Standard Oil Trust, and Standard Oil Company or Companies?—A. There is no Standard Trust.

Q. That you have already stated. You stated that it was called the Standard Oil Trust. Is there a company organized under the laws of the State of New York and another under the laws of Ohio, and soon?—A. Yes, sir.

Q. Separate and distinct corporations?—A. Entirely so.

Q. And parties to this agreement?—A. I do not remember whether they are parties to the agreement. Those persons who were stockholders of these several companies are parties to the agreement, and it is possible the names of the companies themselves are affixed.

Q. But these corporations, either through their stockholders or in their corporate capacity, are parties to the agreement?—A. Yes, sir.

Q. Is there any other corporation which, either of itself or through its stockholders, is a party to this agreement, which is known as the Standard Oil Company?—A. There is the Standard Oil Company of Ohio, there is the Standard Oil Company of Kentucky, and I think of Illinois or Wisconsin or one of the Western States.

Mr. ARCHBOLD. Minnesota.—A. There is a Standard Oil Company organized under the laws of New York, under the laws of New Jersey, under the laws of Ohio, under the laws of Pennsylvania, and under the laws of Minnesota, Iowa, and Kentucky. It seems to be a favorite name.

Q. Yes; it has become quite a standard appellation. [Laughter.] And they all, either in their corporate capacity or by their stockholders, are united in this combination or trust known as the Standard Oil Trust?—A. Yes, sir.

Q. Now, Mr. Flagler, it has been stated that this trust includes within its membership the stockholders of companies formed in different towns and cities of the United States for the purpose of supplying the inhabitants of those cities with manufactured gas. Is there any foundation for that statement?—A. Not to my knowledge; no, sir.

Q. It has also been stated that there is affiliated with this trust or included within its combination a number of corporations engaged in the running of horse-car lines in the different cities.—A. That is also untrue.

Q. The Cotton-Seed Oil Trust is affiliated with this trust, or rather is included in this combination?—A. In no sense whatever; there is absolutely nothing of the kind.

Q. Where does that Cotton-Seed Oil Trust have its existence; by the laws of what State and under what circumstances?—A. That I do not know.

Q. But you are connected with it?—A. I am the unfortunate owner of considerable of its stock.

Q. Do you know whether it is a corporation or not?—A. I understand that that trust is similar, as nearly as it might be made without being a counterpart of the Standard Oil Trust, and was formed under an agreement quite similar to ours, and owns the stock of various corporations engaged in the manufacture of cotton-seed oil. I have never seen a copy of the Cotton-Seed Oil Trust agreement, however.

Q. You used the expression "unfortunately" in connection with your ownership of those shares. Why do you use that term?—A. Because I held the stock when I ought to have sold it, and have got it yet.

Q. Having the light of your past experience to illumine your understanding that reason is apparent to you, and yet we, being deprived of that light, do not exactly understand the reason yet.—A. I mean to say by that I could once have sold the stock at a handsome advance over the sum it cost me, and I did not do it and have it yet.

Q. Has it gone below par?—A. It never was at par.

Q. Have you received any dividend?—A. One.

Q. During what period of time or what length of time?—A. I think I have owned it about five years.

Q. And the dividend was how much?—A. One per cent.

By Mr. SMITH:

Q. I have discovered something here that is very striking. What makes you so positive, Mr. Flagler, in denying that the trust is not engaged in the management of horse railroads, etc., and yet you are not so clear in matters relating to the Standard Oil Trust, of which you are

secretary?—A. If you will explain to me the matters I am not clear about I will try to explain the others to you.

Q. In the testimony that you gave to Mr. Gowen you had a great many hitching posts along the line. Your memory seemed to be out of gear. But when this question was asked by Mr. Buchanan you stated positively at once, denying any such thing. Now, where does that memory come from so quickly? That is what I want to know. That is all I have to ask you?—A. Now, perhaps I could illustrate that in a way in which you could understand it. I was, in my younger days, a clerk in a country store; and while I could not remember anything like all the things we had, I knew at once when an article was asked for that we were out of that it was not in the store.

Q. But you were so well posted on this question and answered it so positively, but I will let that go by?—A. I would like to have the question ventilated, because if the member of the committee is disposed to cast any reflection upon my statement I will show there is good reason for what I said. And I will take pains to repeat that I find in that book (referring to book containing copy of trust agreement) the names of firms that I have no recollection or knowledge of. For instance, here is the name Payne, Abbot & Co. Now, I have no recollection of having ever heard of Payne, Abbot & Co. It is, probably, some little concern of some \$4,000 or \$5,000 capital of which I know nothing, because I have had no connection with the crude trade at all. I am not willing to testify to the correctness of a statement produced here as an exhibit of names of firms without positive knowledge on the subject. When I am asked if this trust engaged or owned the shares of any company engaged in running horse railroads, I answer the question emphatically no, because that is something I do know about.

By Mr. GOWEN :

Q. May not the difficulty arise from the fact that some of the individual members of these various corporations are engaged in running horse railroads?—A. It has become a very popular thing for some persons at least to try to gain influence in the community by representing that the Standard Oil Company, as it is commonly termed, is behind them. I have heard a good deal of that sort of thing as coming from Chicago. I repeat emphatically that the Standard Oil Company in no sense as a trust have \$1 in any such scheme. It is confined by the terms of the agreement and can not engage in any business not directly connected with the oil business. The trust agreement, which I understand is set forth in that book, limits the powers of each of these corporations and the business in which they may engage. I know, or have seen in the newspapers, that certain gentlemen who were trying to get control of the horse railroads of Chicago, represented that they had the Standard Oil Company behind them. That is absolutely false, and there has been a great many such things said, and it gives me pleasure to be able to state in this public manner that all such statements are absolutely and unqualifiedly false.

Q. In that agreement of the Standard Oil Trust, by which they have bound themselves to do a certain business, is the business of natural gas also included?—A. No, sir; I think not.

Q. The piping of natural gas?—A. I think not.

Q. Are any of the branches of the Standard Oil Trust engaged in that business?—A. Not that I know of. And if the members of the committee are willing I wish to ask the privilege of making a statement, which I will endeavor to make very brief.

By Mr. BUCHANAN:

Q. One question first, if you please. Is the National Transit Company one of the members of the combination?—A. Of the Standard Oil Trust; yes, sir.

Q. Was it not stated here to-day by a gentleman of that company that they had engaged in piping for natural gas?—A. That is the point I wanted to correct.

Q. And may it not be the fact that some of these corporations included in this combination may be engaged in pursuits of which you are not advised?—A. I do not think it would be possible.

Q. My question is, whether these subordinate corporations, as you may call them, are engaged as such in any occupation, such as piping natural gas or in supplying manufactured gas to cities without your being aware of the fact?—A. I say I do not think they could be.

Mr. GOWEN. Mr. O'Day testified to that, did he not?

Mr. BUCHANAN. I think he did.

The CHAIRMAN. Mr. Flagler, you may now make any statement you desire to the committee.

The WITNESS. I wish to make a statement in reference to the question asked Mr. O'Day in regard to the right of way granted by the Chicago and Atlantic Railroad Company for the laying of pipe lines to Chicago. I want to explain that, because I know it very much better than Mr. O'Day. That right of way was obtained from four and a half to six years ago; at a time, years before any oil was discovered in Ohio. The Chicago and Atlantic Railroad was not a carrier of oil at all. They had no facilities in Chicago for receiving it. The only way they could transport it from Cleveland was by taking it away round by Leavittsburgh, and so on, by the Baltimore and Ohio to whatever was then the terminus of the Chicago and Atlantic. In other words their geographical position was such that they never were and never have been, until a very recent period, carriers of oil. They sacrificed nothing in giving this right of way.

At that time Mr. H. J. Jewett was the president of the Chicago and Atlantic, and also president of the Erie, and I have forgotten whether of the New York, Pennsylvania and Ohio or not. I think not; but at any rate, years before that a pipe line had been laid between the oil regions of Pennsylvania and Cleveland, and some portions of the distance between the oil region and Cleveland the pipe line had been laid upon lands, the right of way over which was given by what was then the Atlantic and Great Western road, under a verbal permission. At the time I speak of a contract was entered into confirming the pipe line in its possession of that right of way, and a request was made—because it was thought then that possibly the day would come when we would want to build a refinery at Chicago in order to deliver oil to consumers in the far West at a minimum price—the request was made that the Chicago and Atlantic and the New York, Pennsylvania and Ohio should grant the right of way to lay a pipe line along its railroad lines from the intersecting point on its line to Chicago. That was granted, and the condition that was agreed to as a consideration of it was that when that pipe line should be built that then and thereafter the Standard Oil Company, of Cleveland, should give one-third of all the oil it shipped to the West and Southwest to the Chicago and Atlantic, which before that was doing no oil business, the Chicago and Atlantic agreeing to furnish equal facilities with the Lake Shore, which had had a monopoly, if you choose to admit an offensive word, substantially of all the business West.

Now, the Lima oil has been discovered within the past two years. At a very large expense the Standard Oil Company has demonstrated its uselessness as an illuminant. No method, to my knowledge has yet been discovered that can make that oil worth anything at all, except for fuel. It was there, however, and being produced in large quantities. The National Transit Company went into that field and built tanks and local pipe lines from the different wells, but a great percentage, perhaps 90 per cent., of the entire production of the Lima oil is to-day lying on the top of the ground in iron tanks. The problem came as to what to do with it. An iron concern in Chicago, in which I, as an individual, am interested, agreed that they should make a test of that oil as fuel against the Indiana coal. The Chicago and Atlantic Railroad undertook to haul that oil at a low rate of freight in order to see whether it could be delivered in Chicago at a price which would enable it as fuel to compete with coal. It has just about held its own as against Indiana coal. To introduce that oil as a fuel and thus find a market for it, and thus enable manufacturers in the West to find a fuel cheaper than coal, required a cheaper mode of transportation than was possible in tank cars. Then it was we conceived the idea of using this privilege, acquired years before, of laying this pipe line.

Now, the question was asked this morning, would a railroad company give up this large traffic, which was figured up to be a great many thousand barrels a year? The railroads practically gave up nothing. The contract under which this right of way was secured was made several years before. It is very clear to my mind that a pipe line running along the Chicago and Atlantic road from Lima to Chicago and thus being able to supply fuel which will be cheaper than coal by being transported through pipe lines, will tend to build up local manufacturing interests along the line of the road. And in discussing this question with the gentlemen representing the Erie Railroad interest and also with the president of the Chicago and Atlantic, I took that position very properly. There was no occasion to argue the question. It was a legal contract and the National Transit Company had a right to go on and lay pipes. I said to the president of the Chicago and Atlantic Railroad, "You are now doing but a small business in the way of carrying oil and at a rate of freight which hardly pays you for hauling, but still so high that we can not compete with coal in Chicago, a rate at which we can not put oil into Chicago, and make any great market for it." I said to them that the effect of running this pipe line would be that within a few months in every town where manufacturing could be done they would start manufactories, and it would do more for their road than anything else. I only speak of this to explain what seems so strange to you as to why it should give up a valuable traffic and get nothing in return.

By Mr. SMITH:

Q. What did you say the conditions of your contract were between your pipe line and the railroad? Would you give the railroad a certain amount of oil to be shipped over their lines?—A. All refined oil in barrels or tanks.

Q. But I understand that the Lima oil was not susceptible of being refined?—A. That refined oil does not come from Lima at all. The Lima oil can not be refined successfully.

Q. How does the refined oil from Cleveland get to the Atlantic and Pacific? Is not the Lake Shore the nearest and straightest line to Chicago?—A. The difference is not much. Any way it would not come by the Chicago and Atlantic direct from Cleveland by way of the

Cleveland and Columbus to—I have forgotten the exact point—or to Leavittsburgh by the New York, Pennsylvania and Ohio and from Leavittsburgh from some other point still farther west where the intersecting point of the Chicago and Atlantic is, and the probability is that the New York, Pennsylvania and Ohio, if they succeed in obtaining possession of the Chicago and Atlantic, as I understand they hope to do, would rather have the entire haul kept on their leased lines even though the distance is greater.

Q. But the understanding is that you will give them a certain per cent. of the oil for the use of the right of way for your pipe lines.—A. It is more than an understanding; it is an agreement.

Q. Who owns the oil field around about Lima?—A. I do not know; I know who does not own it—we do not.

Q. You are building a pipe line from there to Chicago?—A. Exactly; but we do not own the production, I mean.

Q. Have those people, the producers, any other way of getting it from that district except by that line—the Chicago and Atlantic?—A. Yes; they can ship by the Baltimore and Ohio. They are not tied up there at all.

Q. Won't you be able to ship oil cheaper by the pipe line than by any of the railroads?—A. We think so.

Q. So you expect by that means to get control of that whole oil product to go through your lines?—A. I do not think that is a correct inference at all. It is much fairer to say that we expect, by the instrumentality of this pipe line, to deliver oil to the consumer at the lowest possible figure.

Q. And that same factor will bring the oil to your pipe line?—A. Is there any crime in that?

Q. There is no crime at all; I only want to get you down on record.

By Mr. GOWEN:

Q. That distance is about 200 miles, is it not?—A. I should accept Mr. O'Day's statement; I think that is what he said.

Q. The railroads could haul this oil at 16 cents a barrel and make something out of it?—A. I think the rate has been about 18 cents.

By the CHAIRMAN:

Q. Is there a difference in price, do you know, between the Lima oil and the Pennsylvania oil?—A. An enormous difference. The Lima oil sells at about 15 cents a barrel, and you can not pay even a cheap railroad freight upon it and make anything out of it.

Mr. GOWEN. I offer in evidence now, with the contract of the Standard Oil people, the original trust agreement.

The agreement is as follows:

This agreement, made and entered upon this second day of January, A. D. 1882, by and between all the persons who shall now or may hereafter execute the same as parties thereto.

Witnesseth:—I. It is intended that the parties to this agreement shall embrace three classes, to wit:

1st. All the stockholders and members of the following corporations and limited partnerships, to wit:

Acme Oil Company, New York.

Acme Oil Company, Pennsylvania.

Atlantic Refining Company of Philadelphia.

Bush & Co. (limited).

Camden Consolidated Oil Company.

Elizabethport Acid Works.

Imperial Refining Company (limited).

Charles Pratt & Co.

Paine, Abbett & Co.

Standard Oil Company, Ohio.

Standard Oil Company, Pittsburgh.

Smith's Ferry Oil Transportation Company.

Solar Oil Company (limited).

Sone & Fleming Manufacturing Company (limited).

Also, all the stockholders and members of such other corporations and limited partnerships as may hereafter join in this agreement, at the request of the trustees herein provided for.

2d. The following individuals, to wit:

W. C. Andrews, John D. Archbold, Lide K. Arter, J. A. Bostwick, Benjamin Brewster, D. Bushnell, Thomas C. Bushnell, J. N. Camden, Henry L. Davis, H. M. Flagler, Mrs. H. M. Flagler, John Huntington, H. A. Hutchins, Charles F. G. Heye, A. B. Jennings, Charles Lockhart, A. M. McGregor, William H. Macy, William H. Macy, jr., estate of Josiah Macy, William H. Macy, jr., executor; O. H. Payne, A. J. Pouch, John D. Rockefeller, William Rockefeller, Henry H. Rogers, W. P. Thompson, J. J. Vandergrift, William T. Wardwell, W. G. Warden, Joseph L. Warden, Warden, Frew & Co., Louise C. Wheaton, H. M. Hanna, and George W. Chapin, D. M. Harkness, D. M. Harkness, trustee; S. V. Harkness, O. H. Payne, trustee; Charles Pratt, Horace A. Pratt, C. M. Pratt, Julia H. York, George H. Vilas, M. R. Keith, trustees; George F. Chester.

Also, all such individuals as may hereafter join in the agreement at the request of the trustees herein provided for.

3d. A portion of the stockholders and members of the following corporations and limited partnerships, to wit:

American Lubricating Oil Company.

Baltimore United Oil Company.

Beacon Oil Company.

Bush & Denslow Manufacturing Company.

Central Refining Company of Pittsburgh.

Cheesebrough Manufacturing Company.

Chess Carley Company.

Consolidated Tank Line Company.

Inland Oil Company.

Keystone Refining Company.

Maverick Oil Company.

National Transit Company.

Portland Kerosene Oil Company.

Producers' Consolidated Land and Petroleum Company.

Signal Oil Works (limited).

Thompson & Bedford Company (limited).

Devco Manufacturing Company.

Eclipse Lubricating Oil Company (limited).

Empire Refining Company (limited).

Franklin Pipe Company (limited).

Galena Oil Works (limited).

Galena Farm Oil Company (limited).

Germania Mining Company.

Vacuum Oil Company.

H. C. Van Tine & Company (limited).

Waters-Pierce Oil Company.

Also, stockholders and members (not being all thereof) of other corporations and limited partnerships who may hereafter join in this agreement at the request of the trustees herein provided for.

II. The parties hereto do covenant and agree to and with each other, each in consideration of the mutual covenants and agreements of the others, as follows:

1st. As soon as practicable a corporation shall be formed in each of the following States, under the laws thereof, to wit: Ohio, New York, Pennsylvania, New Jersey; provided, however, that instead of organizing a new corporation, any existing charter and organization may be used for the purpose when it can advantageously be done.

2d. The purposes and powers of said corporations shall be to mine for, produce, manufacture, refine, and deal in petroleum and all its products, and all the materials used in such businesses, and transact other business collateral thereto. But other purposes and powers shall be embraced in the several charters such as shall seem expedient to the parties procuring the charter, or, if necessary to comply with the law, the powers aforesaid may be restricted and reduced.

3d. At any time hereafter, when it may seem advisable to the trustees herein provided for, similar corporations may be formed in other States and Territories.

4th. Each of said corporations shall be known as the Standard Oil Company of (and here shall follow the name of the State or Territory by virtue of the laws of which said corporation is organized).

5th. The capital stock of each of said corporations shall be fixed at such an amount as may seem necessary and advisable to the parties organizing the same, in view of the purpose to be accomplished.

6th. The shares of stock of each of said corporations shall be issued only for money, property, or assets equal at a fair valuation to the par value of the stock delivered therefor.

7th. All of the property, real and personal, assets and business of each and all of the corporations and limited partnerships mentioned or embraced in class first, shall be transferred to and vested in the said several Standard Oil companies. All of the property, assets, and business in or of each particular State shall be transferred to and vested in the Standard Oil Company of that particular State, and in order to accomplish such purpose, the directors and managers of each and all of the several corporations and limited partnerships mentioned in class first are hereby authorized and directed by the stockholders and members thereof (all of them being parties to this agreement) to sell, assign, transfer, convey, and make over, for the consideration hereinafter mentioned, to the Standard Oil Company or companies of the proper State or States, as soon as said corporations are organized and ready to receive the same, all the property, real and personal, assets and business of said corporations and limited partnerships. Correct schedules of such property, assets, and business shall accompany each transfer.

8th. The individuals embraced in class second of this agreement do, each for himself, agree for the consideration hereinafter mentioned to sell, assign, transfer, convey, and set over all the property, real and personal, assets and business mentioned and embraced in schedules accompanying such sale and transfer to the Standard Oil Company or companies of the proper State or States, as soon as the said corporations are organized and ready to receive the same.

9th. The parties embraced in class third of this agreement do covenant and agree to assign and transfer all of the stock held by them in the corporations or limited partnerships herein named, to the trustees herein provided for, for the consideration and upon the terms hereinafter set forth. It is understood and agreed that the said trustees and their successors may hereafter take the assignment of stocks in the same or similar companies upon the terms herein provided, and that whenever and as often as all the stocks of any corporations or limited partnerships are vested in said trustees, the proper steps may then be taken to have all the moneys, property, real and personal, of such corporation or partnership assigned and conveyed to the Standard Oil Company, of the proper State, on the terms and in the mode herein set forth, in which event the trustees shall receive stocks of the Standard Oil companies, equal to the value of the money, property, and business assigned, to be held in place of the stocks of the company or companies assigning such property.

10th. The consideration for the transfer and conveyance of the money, property, and business aforesaid to each or any of the Standard Oil companies shall be stock of the respective Standard Oil Company to which said transfer or conveyance is made, equal at par value to the appraised value of the money, property, and business so transferred. Said stock shall be delivered to the trustees hereinafter provided for, and their successors, and no stock of any of said companies shall ever be issued except for money, property, or business, equal, at least, to the par value of the stock so issued, nor shall any stock be issued by any of said companies for any purpose, except to the trustees herein provided for, to be held subject to the trusts hereinafter specified. It is understood, however, that this provision is not intended to restrict the purchase, sale, and exchange of property by said Standard Oil companies as fully as they may be authorized to do by their respective charters; provided only that no stock be issued therefor except to said trustees.

11th. The consideration for any stocks delivered to said trustees, as above provided for, as well as for stocks delivered to said trustees by persons mentioned or included in class third of this agreement, shall be the delivery by said trustees to the persons entitled thereto, of trust certificates hereinafter provided for, equal at par value to the par value of the stocks of the said several Standard Oil companies so received by said trustees and equal to the appraised value of the stocks of other companies or partnerships delivered to said trustees.

The said appraised value shall be determined in a manner agreed upon by the parties in interest and said trustees.

It is understood and agreed, however, that the said trustees may, with any trust funds in their hands, in addition to the mode above provided, purchase the bonds and stocks of other companies engaged in business similar or collateral to the business of said Standard Oil companies on such terms and in such mode as they may deem advisable, and shall hold the same for the benefit of the owners of said trust certificates, and may sell, assign, transfer, and pledge such bonds and stocks whenever they may deem it advantageous to said trust so to do.

III. The trusts upon which said stocks shall be held, and the number, powers and duties of said trustees shall be as follows:

1st. The number of trustees shall be nine.

2d. J. D. Rockefeller, O. H. Payne, and William Rockefeller are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1885.

3d. J. A. Bostwick, H. M. Flagler, and W. G. Warden are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1884.

4th. Charles Pratt, Benjamin Brewster, and John A. H. Bould are hereby appointed trustees, to hold their office until the first Wednesday of April, A. D. 1883.

5th. Elections for trustees to succeed those herein appointed shall be held annually, at which election a sufficient number of trustees shall be elected to fill all vacancies occurring either from expiration of the term of the office of trustee or from any other cause. All trustees shall be elected to hold their office for three years, except those elected to fill a vacancy arising from any cause except expiration of term, who shall be elected for the balance of the term of the trustee whose place they are elected to fill. Every trustee shall hold his office until his successor is elected.

6th. Trustees shall be elected by ballot by the owners of trust certificates or their proxies. At all meetings the owners of trust certificates, who may be registered as such on the books of the trustees, may vote in person or by proxy, and shall have one vote for each and every share of trust certificates standing in their names, but no such owner shall be entitled to vote upon any share which has not stood in his name thirty days prior to the day appointed for the election. The transfer books may be closed for thirty days immediately preceding the annual election. A majority of the shares represented at such election shall elect.

7th. The annual meeting of the owners of said trust certificates for the election of trustees, and for other business, shall be held at the office of the trustees, in the city of New York, on the first Wednesday of April of each year, unless the place of meeting be changed by the trustees, and said meeting may be adjourned from day to day until its business is completed. Special meetings of the owners of said trust certificates may be called by a majority of the trustees, at such times and places as they may appoint. It shall also be the duty of the trustees to call a special meeting of holders of trust certificates whenever requested to do so by a petition signed by the holders of ten per cent. in value of such certificates. The business of such special meetings shall be confined to the object specified in the notice given therefor. Notice of the time and place of all meetings of the owners of trust certificates shall be given by personal notice so far as possible, and by public notice in one of the principal newspapers of each State in which a Standard Oil Company exists, at least ten days before such meeting. At any meeting, a majority in value of the holders of trust certificates represented consenting thereto, by-laws may be made, amended, and repealed relative to the mode of the election of trustees, and other business of the holders of trust certificates; provided, however, that said by-laws shall be in conformity with this agreement. By-laws may also be made, amended, and repealed at any meeting, by and with the consent of a majority in value of the holders of trust certificates, which alter this agreement relative to the number, powers, and duties of the trustees, and to other matters tending to the more efficient accomplishment of the objects for which the trust is created; provided only, that the essential intents and purposes of this agreement be not thereby changed.

8th. Whenever a vacancy occurs in the board of trustees, more than sixty days prior to the annual meeting for the election of trustees, it shall be the duty of the remaining trustees to call a meeting of the owners of Standard Oil Trust certificates for the purpose of electing a trustee or trustees to fill the vacancy or vacancies. If any vacancy occurs in the board of trustees, from any cause, within sixty days of the date of the annual meeting for the election of trustees, the vacancy may be filled by a majority of the remaining trustees, or, at their option, may remain vacant until the annual election.

9th. If for any reason at any time a trustee or trustees shall be appointed by any court to fill any vacancy or vacancies in said board of trustees, the trustee or trustees so appointed shall hold his or their respective office or offices only until a successor or successors shall be elected in the manner above provided for.

10th. Whenever any change shall occur in the board of trustees, the legal title to the stock and other property held in trust shall pass to and vest in the successors of said trustees without any formal transfer thereof. But if at any such time formal transfer shall be deemed necessary or advisable, it shall be the duty of the board of trustees to obtain the same, and it shall be the duty of any retiring trustee, or the administrator or executor of any deceased trustee, to make said transfer.

11th. The trustees shall prepare certificates which shall show the interest of each beneficiary in said trust and deliver them to the persons properly entitled thereto. They shall be divided into shares of the par value of \$100 each, and shall be known as the Standard Oil Trust certificates, and shall be issued subject to all the terms and conditions of this agreement. The trustees shall have power to agree upon and direct the form and contents of said certificates and the mode in which they shall be signed, attested, and transferred. The certificates shall contain an express stipulation that the holders thereof shall be bound by the terms of this agreement and by the by-laws herein provided for.

12th. No certificates shall be issued except for stocks and bonds held in trust as herein provided for, and the par value of certificates issued by said trustees shall be

equal to the par value of the stocks of said Standard Oil Company and the appraised value of other bonds and stocks held in trust. The various bonds, stocks, and moneys held under said trust shall be held for all parties in interest jointly, and the trust certificates so issued shall be the evidence of the interest held by the several parties in this trust. No duplicate certificates shall be issued by the trustees, except upon surrender of the original certificate or certificates for cancellation, or upon satisfactory proof of the loss thereof, and in the latter case they shall require a sufficient bond of indemnity.

13th. The stocks of the various Standard Oil companies, held in trust by said trustees, shall not be sold, assigned, or transferred by said trustees, or by the beneficiaries, or by both combined, so long as this trust endures. The stocks and bonds of other corporations held by said trustees may be by them exchanged or sold and the proceeds thereof distributed pro rata to the holders of trust certificates, or said proceeds may be held and re-invested by said trustees for the purposes and uses of the trust: Provided, however, that said trustees may, from time to time, assign such shares of stock of said Standard Oil Company as may be necessary to qualify any person or persons chosen or to be chosen as directors and officers of any of said Standard Oil companies.

14th. It shall be the duty of said trustees to receive and safely to keep all interest and dividends declared and paid upon any of the said bonds, stocks, and moneys held by them in trust, and to distribute all moneys received from such sources or from sales of trust property or otherwise by declaring and paying dividends upon the Standard Trust certificates as funds accumulate which in their judgment are not needed for the use and expenses of said trust. The trustees shall, however, keep separate accounts of receipts from interest and dividends, and of receipts from sales or transfers of trust property, and in making any distribution of trust funds, in which moneys derived from sales or transfers shall be included, shall render the holders of trust certificates a statement showing what amount of the fund distributed has been derived from such sales or transfers. The said trustees may be also authorized and empowered by a vote of a majority in value of holders of trust certificates, whenever stocks or bonds have accumulated in their hands from money purchases thereof, or the stocks or bonds held by them have increased in value, or stock dividends shall have been declared by any of the companies whose stocks are held by said trustees, or whenever, from any such cause, it is deemed advisable so to do, to increase the amount of trust certificates to the extent of such increase or accumulation of values and to divide the same among the persons then owning trust certificates pro rata.

15th. It shall be the duty of said trustees to exercise general supervision over the affairs of said several Standard Oil companies, and, as far as practicable, over the other companies or partnerships, any portion of whose stock is held in said trust. It shall be their duty, as stockholders of said companies, to elect as directors and officers thereof, faithful and competent men. They may elect themselves to such positions when they see fit so to do, and shall endeavor to have the affairs of all of said companies managed and directed in the manner they may deem most conducive to the best interests of the holders of said trust certificates.

16th. All the powers of the trustees may be exercised by a majority of their number. They may appoint from their own number an executive and other committees. A majority of each committee shall exercise all the powers which the trustees may confer upon such committee.

17th. The trustees may employ and pay all such agents and attorneys as they deem necessary in the management of said trust.

18th. Each trustee shall be entitled to a salary for his services not exceeding \$25,000 per annum, except the president of the board, who may be voted a salary not exceeding \$30,000 per annum, which salaries shall be fixed by said board of trustees. All salaries and expenses connected with or growing out of the trust shall be paid by the trustees from the trust fund.

19th. The board of trustees shall have its principal office in the city of New York, unless changed by a vote of the trustees, at which office, or in some place of safe deposit in said city, the bonds and stocks shall be kept. The trustees shall have power to adopt rules and regulations pertaining to the meetings of the board, the election of officers and the management of the trust.

20th. The trustees shall render at each annual meeting a statement of the affairs of the trust. If a termination of the trust be agreed upon, as hereinafter provided, or within a reasonable time prior to its termination by lapse of time, the trustees shall furnish to the holders of trust certificates a true and perfect inventory and appraisalment of all stocks and other property held in trust, and a statement of the financial affairs of the various companies whose stocks are held in trust.

21st. This trust shall continue during the lives of the survivors and survivor of the trustees in this agreement named, and for twenty-one years thereafter: Provided, however, that if, at any time after the expiration of ten years, two-thirds of all the holders in value, or if, after the expiration of one year, ninety per cent. of all the

holders in value of trust certificates, shall, at a meeting of holders of trust certificates called for that purpose, vote to terminate this trust at some time to be by them then and there fixed, the said trust shall terminate at the date so fixed. If the holders of trust certificates shall vote to terminate the trust as aforesaid, they may, at the same meeting, or at a subsequent meeting called for that purpose, decide by a vote of two-thirds in value of their number, the mode in which the affairs of the trust shall be wound up, and whether the trust property shall be distributed, or whether it shall be sold, and the values thereof distributed; or whether part, and if so, what part shall be divided and what part shall be sold, and whether such sales shall be public or private.

The trustees, who shall continue to hold their offices for that purpose, shall make the distribution in the mode directed; or, if no mode be agreed upon by two-thirds in value, as aforesaid, the trustees shall make distribution of the trust property according to law. But said distribution, however made, and whether it be of property or values, or of both, shall be just and equitable, and such as to insure to each owner of a trust certificate his due proportion of the trust property, or the value thereof.

22d. If the trust shall be terminated by expiration of the time for which it is created, the distribution of the trust property shall be directed and made in the mode above provided.

23d. This agreement, together with the registry of certificates, books of accounts, and other books and papers connected with the business of said trust, shall be safely kept at the principal office of said trustees.

BENJ. BREWSTER.
JNO. D. ARCHBOLD.
J. A. BOSTWICK.
CHAS. PRATT.
HENRY H. ROGERS.

H. A. PRATT.
C. M. PRATT.
D. M. HARKNESS, *Trustee*,
by H. M. FLAGLER, *Attorney*
THOMAS C. BUSHNELL.

W. C. ANDREWS.

CHAS. F. G. HEYE.

WILLIAM T. WARDWELL.

WM. H. MACY.

Estate JOSIAH MACY, JR.

WM. H. MACY, JR., *Ex.*

WM. H. MACY, JR.
A. M. MCGREGOR.

J. N. CAMDEN,
per H. M. FLAGLER, *Attorney*.
O. H. PAYNE,
by H. M. FLAGLER, *Attorney*.
GEO. F. CHESTER, *Trustee*.
GEO. H. VILAS, *Trustee*.
W. G. WARDEN.

H. M. FLAGLER.
JOHN D. ROCKERFELLER.
WM. ROCKEFELLER.

J. J. VANDEGRIFT.
Mrs. H. M. FLAGLER,
per H. M. FLAGLER.

A. J. POUCH.
O. B. JENNINGS.
D. M. HARKNESS,
by H. M. FLAGLER, *Attorney*.

W. P. THOMPSON,
by H. M. FLAGLER, *Attorney*.

S. V. HARKNESS,
by H. M. FLAGLER, *Attorney*.

JOHN HUNTINGTON,
by H. M. FLAGLER, *Attorney*.

LIDE K. ARTER,
by H. M. FLAGLER, *Attorney*.

H. M. HANNA and
GEO. W. CHAPIN,
by H. M. FLAGLER, *Attorney*.

LOUISE C. WHEATON,
by H. M. FLAGLER, *Attorney*.

O. H. PAYNE, *Trustee*,
by H. M. FLAGLER, *Attorney*.

CHAS. LOCKHART.
JOS. L. WARDEN,
by HENRY L. DAVIS, *Attorney*.

JULIA H. YORK,
per H. M. FLAGLER, *Attorney*.

H. A. HUTCHINS,
by H. M. FLAGLER, *Attorney*.

M. R. KEITH, *Trustee*.

D. BUSHNELL.
WARDEN, FREW & Co.

HENRY L. DAVIS.

Whereas in and by an agreement dated January 2, 1882, and known as the Standard trust agreement, the parties thereto did mutually covenant and agree *inter alia* as follows, to wit: That corporations to be known as Standard Oil companies of various States should be formed, and that all of the property, real and personal, assets, and business of each and all of the corporations and limited partnerships mentioned or embraced in Class I of said agreement should be transferred to and vested in the said several Standard Oil companies; that all of the property, assets, and business in or of each particular State, should be transferred to and vested in the Standard Oil Company of that particular State, and the directors and managers of each and all of the several corporations and associations mentioned in Class I were authorized and directed to sell, assign, transfer, and convey, and make over to the Standard Oil Company or companies of the proper State or States, as soon as said corporations were or

ganized and ready to receive the same, all the property, real and personal assets, and business of said corporations or associations; and

Whereas it is not deemed expedient that all of the companies and associations mentioned should transfer their property to the said Standard Oil companies at the present time, and in case of some companies and associations it may never be deemed expedient that the said transfers should be made and said companies and associations go out of existence; and

Whereas it is deemed advisable that a discretionary power should be vested in the trustees as to when such transfer or transfers should take place, if it all. Now, it is hereby mutually agreed between the parties to the said trust agreement, and as supplementary thereto, that the trustees named in the said agreement and their successors shall have the power and authority to decide what companies shall convey their said property as in said agreement contemplated, and when the said sales and transfers shall take place, if at all; and until said trustees shall so decide, each of said companies shall remain in existence and retain its property and business, and the trustees shall hold the stocks thereof in trust as in said agreement provided. In the exercise of said discretion, the trustees shall act by a majority of their number as provided in said trust agreement. All portions of said trust agreement relating to this subject shall be considered so changed as to be in harmony with this supplemental agreement.

In witness whereof the said parties have subscribed this agreement, this 4th day of January, 1882.

BENJ. BREWSTER.
JOHN D. ARCHBOLD.
J. A. BOSTWICK.
CHARLES PRATT.
HENRY H. ROGERS.

H. A. PRATT.
C. M. PRATT.
D. M. HARKNESS, *Trustee*.
D. M. HARKNESS.
T. C. BUSHNELL.
W. G. ANDREWS.
CHARLES F. G. HEYE.

WILLIAM T. WARDWELL.

WILLIAM H. MACY.
Estate JOSIAH MACY, Jr.
WILLIAM H. MACY, Jr., *Ex'r*.
WILLIAM H. MACY, Jr.
A. M. MCGREGOR.
J. N. CAMDEN.
JULIA H. YORK,
by B. H. Y.
O. H. PAYNE.
GEORGE F. CHESTER, *Trustee*.
M. R. KEITH, *Trustee*.

H. M. FLAGLER.
JOHN D. ROCKEFELLER.
WILLIAM ROCKEFELLER.
J. J. VANDERGRIFT.
MRS. H. M. FLAGLER

by H. M. FLAGLER.
A. J. POUCH.
O. B. JENNINGS.
W. O. THOMPSON.
S. V. HARKNESS.
JOHN HUNTINGTON.
LIDE K. ARTER.
H. M. HANNA.
GEORGE W. CHAPIN,
H. M. HANNA, *Attorney in fact*.
LOUISE C. WHEATON,
by H. M. FLAGLER.
O. H. PAYNE, *Trustee*.
CHARLES LOCKHART.
JOSEPH L. WARDEN.
HENRY L. DAVIS.
W. G. WARDEN.
WARDEN, FREW & Co.
D. BUSHWELL.

H. A. HUTCHINS.
GEORGE H. VILAS, *Trustee*.

The WITNESS. I am advised that I have made a serious mistake in my testimony which I now desire to correct. The Standard Oil Trust owns the stock in whole or in part—I am unable to say which—of one or more companies engaged in the movement of natural gas.

By Mr. GOWEN :

Q. Can you give the names of those companies ?—A. I can not.

Q. Who can ?—A. I presume Mr. Brewster or Mr. Archbold.

Witness excused.

STANDARD OIL TRUST,
26 Broadway, New York, May 14, 1888.

DEAR SIR: I desire to comply with the request made of me, when testifying before your committee, that I should furnish the committee with a statement of the persons to whom the certificates of interest in the Standard Oil Trust were issued.

The persons to whom the certificates were issued were those whose names are attached to the trust agreement, a copy of which is in evidence, with the exception only of Keith, Vilas, and Chester, trustees. It is therefore unnecessary to repeat the list, as it is already in evidence. Keith, Vilas, and Chester were trustees for parties

who signed the agreement and for no other persons. As the agreement dissolved that trust no certificates were issued to Keith, Vilas, or Chester, but were issued to the persons for whom they had been trustees, all of whom were parties to said agreement. Among other names to the agreement to whom stock was issued will be found O. H. Payne, trustee; D. M. Harkness, trustee; and H. M. Flagler, trustee. O. H. Payne was trustee for Warden, Frew & Co., D. M. Harkness was trustee for W. L. Harkness, and H. M. Flagler was trustee for Harry H. Flagler. The property for which the certificates were issued was the stock of the various companies named in the trust agreement.

Truly yours,

H. M. FLAGLER.

Mr. HENRY BACON,

Chairman of Committee on Manufactures.

TESTIMONY OF J. D. ARCHBOLD.

J. D. ARCHBOLD, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. New York City.

Q. What is your age?—A. Thirty-nine.

Q. What is your business?—A. I am in the petroleum business.

Q. In what capacity?—A. I am the president of the Acme Oil Company.

Q. That is one of the companies that is in the Standard Trust?—A. Yes, sir.

Q. Are you connected with any other corporations, associations, or partnerships in the Standard Trust?—A. Yes, sir.

Q. Give us their names.—A. There are two Acme Oil Companies.

Q. Both called the Acme Oil Company?—A. They are different corporations, one of New York and the other of Pennsylvania; I am also president of the Atlas Refining Company of New York, and am director in several different companies. Shall I name them?

Q. Yes; give the names of all the different companies in which you are connected, either as manager, officer, or stockholder?—A. In addition to those I have named, the Bush & Denslow Manufacturing Company, the Empire Refining Company, limited, and the Standard Oil Company of New York.

Q. Any others?—A. I am a director in the National Transit Company.

Q. Any others?—A. I do not recall any others.

Q. When did you first become connected in any manner with the oil trade?—A. In 1864.

Q. You were a young man at that time?—A. Yes, sir; I was about sixteen years old.

Q. In what capacity; what were you then?—A. I was a clerk in an oil-house in the oil region.

Q. A purchasing house?—A. No; a trading house.

Q. Engaged in buying and selling?—A. Yes, sir.

Q. When did you first become connected with the refining business?—A. In 1869.

Q. Where?—A. Titusville, under the name of Porter, Moreland & Co.

Q. A private firm?—A. Yes, sir.

Q. Were you a member of the firm?—A. I was.

Q. Are you a holder of Standard Oil Trust certificates?—A. I am.

Q. To what extent?—A. I prefer, as that is a private matter and not pertinent to the inquiry, to not state.

Q. I think we ought to have this. What is your objection?—A. Well, as it is a purely personal question as to my own property, I do not see what special interest it could be to this committee or to the public.

Q. Do you decline to answer?—A. Well, I prefer not to answer.

Q. Do you decline to answer?—A. Well, I decline to answer; yes, sir.

Q. You do?—A. Yes, sir.

The CHAIRMAN. The question as to whether the committee will require the witness to answer or not must be determined in executive session when there are more members present. At present the matter may remain just as it is.

Q. Are you or were you interested in any way in the stock, bonds, or other certificates of interest which were held by the three trustees, Mr. J. F. Chester, Malcom Keith, and Mr. Vilas?—A. I was interested in the stock of the Acme Oil Company.

Q. Did they hold that?—A. Yes, sir.

Q. Your interest in that was held by them as trustee?—A. Yes, sir.

Q. When the Standard Oil Trust was formed and the paper signed by Messrs. Chester, Keith, and Vilas as trustees representing the amounts of stocks and securities which they held, were certificates of the Standard Oil Trust issued to them directly, or were they issued to the people in whose behalf they held the property which was turned over to the Standard Oil Trust?—A. Well, whether they were first issued to the committee or turned over to the officials of the company direct I can not say.

Q. When I ask you what interest, if any, you had in Standard Oil Trust certificates I, of course, meant to include any which up to the period of distribution had been held by these trustees. You so understood?—A. Yes, sir.

Q. But whatever that may have been it is now in your possession?—A. Yes, sir; it is in my own possession.

Q. When you engaged in business as a youth you could not have been more than fourteen?—A. Well, at the time I first went into the oil business I was in my sixteenth year. I became a partner in a trading house some two years afterwards.

Q. When did you first join or become connected with or interested in any corporation, firm, or association which is now affiliated with the Standard Oil Trust?—A. In 1875.

Q. What amount of capital did you then have?—A. I could not answer.

Q. Do you mean you could not or would not?—A. I can not answer from memory and I do not think I would if I could.

Q. Mr. Archbold, do you know the American Transfer Company, or did you?—A. I know of it.

Q. Were you ever interested in it?—A. I never was.

Q. In any manner?—A. No, sir.

Q. You never held any direct or indirect interest in it?—A. No, sir.

Q. Were you ever a stockholder of the Standard Oil Company of Ohio?—A. I was.

Q. At what time did you become such?—A. In 1875—no; perhaps it was 1876.

Q. Did you become a stockholder in the Standard Oil Company of Ohio prior to the time at which that company acquired possession of the American Transfer Company?—A. I do not know from my own memory when they did acquire the American Transfer Company.

Q. Did you become a stockholder of the Standard Oil Company of Ohio by reason of having transferred to them any property for which you took their certificates; or did you purchase their shares?—A. I sold the shares of the Acme Oil Company finally.

Q. It was in that manner?—A. Yes; and by purchase to a further extent.

Q. The Acme Oil Company was never bodily transferred to the Standard Oil Company of Ohio, was it?—A. No, sir.

Q. Their interest is simply represented by stock, is it not?—A. Yes, sir.

Q. Do you remember the period at which the Tidewater Company, Limited, entered into competition with yourself as a mover of oil?—A. I do.

Q. You remember the fact, do you not?—A. I do.

Q. Were you present in Saratoga at a conference between gentlemen in your interest and gentlemen in the interest of the trunk lines on the subject of rates over the trunk lines in consequence of the opening of this new line?—A. I was not.

Q. Do you know who attended that conference?—A. I never heard of it until I heard you speak of it to-day.

Q. Mr. Flagler testified that you had some knowledge on the question of transportation?—A. I have some such knowledge.

Q. Had you at that time?—A. Undoubtedly.

Q. As representing your refining interests?—A. Yes, sir.

Q. To what net price, less rebates, if any, did the rate for moving petroleum on the trunk lines fall; what is the lowest you can remember?—A. I could not state from memory the figures reached at any period. It was at all times a question of the very best contract which could be made in the transportation of oil.

Q. You mean you made the best contracts you could?—A. I did, sir.

Q. You got the very best terms you could out of the railroads?—A. Yes, sir.

Q. No matter what other people got?—A. I was not attending to business for other people.

Q. But you were at all times willing to do the best you could for yourself?—A. To make the best arrangement I could for the concern to which I was dealing.

Q. Irrespective of any considerations as to whether the obligations of the railroads as common carriers authorized them to do so or not?—A. That was a matter for them to consider and not me.

Q. You did not intend to keep their consciences?—A. I would have had a hard job, I am afraid.

Q. Do you remember, at the time the Tidewater Company came into existence or shortly after, that the rates on oil fell to 10 or 15 cents a barrel?—A. I have no recollection of any such figures as that. It is possible, but I have no memory of it.

Q. How could you ascertain that; how could you revive your recollection?—A. I do not know, I am sure, how I could.

Q. Can you tell us then, by another way possibly, what the highest rate of drawback per barrel you ever received from any of the trunk lines upon the transportation of crude oil from railway to tidewater was?—A. I can not.

Q. You frequently made contracts with the railroads upon such subjects, did you not?—A. We were constantly making them.

Q. Constantly?—A. Yes, sir.

Q. Were those contracts reduced to writing?—A. Very seldom, if ever. I have no recollection of any written contract.

Q. How were those rebates received by you?—A. Well, the contracts were not often made in a shape involving a rebate payment. They usually fixed a net figure that was paid.

Q. But to go back ten or twelve years; rebates were then in existence,

were they not?—A. The rebate system was in common use among the railroads, no doubt. It was my preference always to agree on a net rate that should be paid.

Q. Either by rebate or without?—A. A net fixed rate, that should be paid without any question of rebating.

Q. Did you familiarize yourself with the rates, open to the public at the same time?—A. I had knowledge always of the nominal rates; everybody had; but there was a long period during which everybody who shipped oil knew that the rates on the public schedules were only nominal, and that it was a question of special contract always.

Q. Always?—A. Always.

Q. In which whoever could by any means at all get the lowest rate got it if he could?—A. Undoubtedly.

Q. It was simply a question of commerce and business to have the stuff moved as low as possible irrespective of what other people paid?—A. That was the system which prevailed in all important matters of traffic on the railroads. The oil traffic was no exception. We never suggested any such thing. We were parties to it per force.

Q. You used one railroad against the other constantly, did you not, by way of getting the lowest rate?—A. We undoubtedly, as I have already stated, tried to make the very best arrangement we could at all times.

Q. If you will permit us to understand that making the best arrangements included arguments of persuasion as well as intimidation, I will ask you no further questions about it.—A. We certainly made shipments on the roads which gave us the best terms.

Q. And would trade your business from one to another wherever you could?—A. Undoubtedly. We used the water-ways at times, and also used the canals.

Q. In New York?—A. Yes, sir; our object has always been to reduce rates and cheapen the product and increase its consumption by making the lowest price possible to the consumer.

Q. Always looking out for making money for yourselves?—A. We were not always entirely philanthropic.

Q. And that has resulted in an accumulation of an amount of stock in the Standard Oil Trust which, for reasons of your own, you do not wish to make public?—A. I can hardly see what interest it would be to the public to know it.

Q. Do you know the gentlemen in the oil trade who were owners of refineries who ceased to do business by reason of the low rates you obtained, and which they were not equally successful in obtaining?—A. I think the oil trade has developed as great a share of success as any other phase of commercial life; I think it has had its shares of failures from various causes.

Q. What proportion of that trade is now controlled by companies affiliated with the Standard?—A. About 75 per cent.

Q. Is there not more than that?—A. No; I think not more than that.

Q. Can you name refining establishments in this country that are independent of the Standard Oil Trust—associations, firms, or corporations—that are doing as high as 25 per cent. of the business?—A. I can name firms that do, or at least I can furnish names of firms that are capable of doing more than that.

Q. But that are doing it?—A. Just what their record in actual working is I would not state positively from actual knowledge; I should say about 25 per cent.

Q. Do you not keep in some department of your various corporations

a record of the total amount of business done by all of them?—A. Yes, sir; I suppose such a record is kept.

Q. But do you not know that there is such a record?—A. There is no specific demand for such a record.

Q. But is there not such a record?—A. It would be possible to make up such a record.

Q. That statement would show the total number of barrels handled by your concern?—A. We could make up such a statement.

Q. Which would show the actual proportion of the business done?—A. Yes, sir.

Q. How long would it take you to make such a statement?—A. It would depend upon what period you wished to cover.

Q. The past year?—A. It would take a reasonable time.

Q. Will you send us such a statement?—A. I will try to do so if no opposition is made in any quarter.

Q. If you will agree as a witness to send us such a statement I will not trouble you further.—A. I will do my best to do so.

Q. Name, if you can, any refineries outside of your own that will aggregate or have handled in the past year a business equal to 25 per cent. of the whole.—A. I could not name them from memory; but there are in the aggregate perhaps a thousand independent concerns in this country.

Q. But not doing much business?—A. None of us are doing much business just now; it is a dull period. I think they do their share of the business when there is business to do.

Q. Do you know that your aggregate capacity or aggregate product is nearly 85 per cent.?—A. No, sir; it is nearer 75.

Q. Than 85?—A. Yes, sir.

Q. But have not you or your people an interest in some of these independent refineries?—A. No, sir; with one single exception.

Q. You have an interest in the Tide-water Company?—A. Yes, sir; that is the exception I refer to.

Q. But that is the largest of all?—A. Yes, sir.

Q. You have bought up some minority stock?—A. Yes, sir.

Q. And to that extent you share in their prosperity?—A. Yes, sir.

Q. Now, taking your share of their business and adding it to your own, would not that increase your own estimated percentage?—A. That would increase it perhaps 2 or 3 per cent.

Q. Have you any interest in what is called the Cotton-Seed Oil Trust?—A. I have not.

Q. Or in that business?—A. No, sir.

Q. What interests have you gentlemen in the ownership or management or control of tank cars for carrying oil?—A. We own, through the Standard Oil Company of Ohio, a considerable tank-car service.

Q. What is it called?—A. The Union Tank Line.

Q. That is, a car line which, run in the name of the Union Tank Line, is owned by the Standard Oil Company of Ohio?—A. Yes, sir.

Q. Will you look at this paper and see if this is an official railroad paper showing the numbers and capacity of the different oil-tank cars that are in the trade—your own line as well as others?

(Mr. Gowen here handed to the witness a paper entitled "Capacity of oil-tank cars.")

A. It is certainly what purports to be. I have no knowledge of it. I have never seen the paper before.

Q. You know that such papers are issued?—A. I know such are issued; yes, sir.

Q. State whether, as a business man engaged in the oil trade, you do

not know it to be an official statement?—A. I have no knowledge of its being official.

Q. It is signed by the various officers, is it not?—A. It appears to be so.

Q. Is it not signed by somebody representing your line?—A. No, sir; it seems to emanate entirely from a railroad source. There are no signatures of tank-line people attached to it.

Q. State whether or not in transacting the business of shipping oil by tank cars, whether crude or refined, the statement of the railroad companies as to the capacity of those cars are not usually accepted as correct.—A. They are accepted schedules undoubtedly in the hands of the various shippers.

Q. Do you not believe that this is one of them?—A. I have no knowledge of it. It appears to be.

The CHAIRMAN. Is there such a circular issued by your Union Tank Line?

The WITNESS. They issue their own schedules.

The CHAIRMAN. Such a schedule as that?

The WITNESS. Yes, sir.

The CHAIRMAN. But that is not one?

The WITNESS. No, sir.

By Mr. GOWEN:

Q. Where is the headquarters of the Union Trunk Line?—A. It has offices both in Cleveland and New York.

Q. Will you send us one of the statements issued by your own line?—A. I will endeavor to procure it.

Q. You can procure it, can't you?—A. I should think I could.

The CHAIRMAN. I think there should be entire frankness about it. If that is important I think the witness ought to furnish it.

The WITNESS. If the committee deems it important I shall get it for them. I am not connected with any of those companies, but I think I can furnish it.

By Mr. GOWEN:

Q. Will you look at the middle of that page and see the names of these other companies. The Continental Company; have you people any interest in that?—A. No, sir.

Q. Kirk Brothers?—A. Not that I know of.

Q. Schofield?—A. No, sir.

Q. Or any of those small concerns?—A. No, sir.

Q. To whom does the Green Line belong?—A. To the Pennsylvania road.

Q. Have you any charge of, or supervision over, or knowledge of, the question of sale and distribution of refined oil in the United States?—A. I have some knowledge. I have no direct supervision.

Q. Is there not a department upon that subject among your interests and connected with them?—A. There are gentlemen who are especially charged with the domestic trade distribution; yes, sir.

Q. State whether the United States, or the greater portion of the United States, is not divided into districts for the purpose of managing and controlling that business?—A. The business is managed by different corporations in the different sections; yes, sir.

Q. Can you tell us how that is divided?

The WITNESS. Can I tell you the names of the different corporations, do you mean?

Q. Yes, as nearly as you can, and the geographical divisions in that connection.—A. I would not desire to permit the explanation to be un-

derstood as saying that that business is done by these corporations in these various localities to the exclusion of others.

Q. I just want to know how you do?—A. The domestic trade business is done on the Atlantic sea-board by the Maverick Oil Company, of Boston, the Portland Kerosene Oil Company, of Portland, Me., and by half a dozen different concerns in New York; shall I undertake to name them?

Q. As nearly as you can.—A. The Standard Oil Company, of New York; the Empire Refining Company, limited, of New York; the Bush & Denslow Manufacturing Company, limited, of New York; J. F. Gregory, of New York; the Sone and Fleming Manufacturing Company, of New York. That is all I can think of in New York.

Q. What is the territorial extent of what you call the sea-board district?—A. Extending south; do you want me to go on with the list?

Q. I do, if you have not finished.—A. The Baltimore United Oil Company, of Baltimore; the Standard Oil Company, of Kentucky; the Waters-Pearce Oil Company, of Saint Louis; and the Consolidated Tank-Line Company, of Cincinnati; the Standard Oil Company, of Iowa; the P. C. Hanford Oil Company, of Chicago. I believe those are the important divisions.

Q. Now, how far west does the domestic sea-board business extend under that territorial designation?—A. Well, it would extend to what is in the interior from the sea-board reached most advantageously as to cost from the sea-board.

Q. From the sea-board?—A. Yes; as distinguished from a distributing interior point.

Q. We will take it with reference to certain boundaries to the Mississippi River.—A. There the Waters-Pearce Oil Company, of Saint Louis, controls.

Q. And on the south to the Gulf of Mexico?—A. Yes, sir; but I have later covered not only the Atlantic sea-board but the interior companies as well.

Q. I was afraid of that. Just give us what territory is embraced in your designation of Atlantic sea-board. That becomes, as it were, a department or geographical district?—A. Yes, sir; and those districts are divided up geographically on the score of economy and transportation.

Q. How far west does the Atlantic sea-board department extend?—A. I could not undertake to outline any department with which I have not personal contact.

Q. Who has personal supervision or control over that department?—A. I should say Colonel Thompson would be as competent as any one to answer about that.

Q. Where does he live?—A. In New York.

Q. You call that the Atlantic sea-board district, or do you call it a department?—A. Section, if you please.

Q. If you please, I want to know what you call it.—A. We have no designating title for it.

Q. In the South—the Gulf States—what do you designate them?—A. We do not divide the country into designated sections. The business is done by these various corporations covering the sections in the way I have described, in the way it can be most economically done as to transportation.

Q. Who or what companies supply the districts west of the Mississippi River?—A. The Standard Oil Company, of Iowa, and the Consolidated Tank Line Company.

Q. And what companies supply the Gulf States?—A. The Waters-Pearce Oil Company.

Q. Exclusively?—A. Yes.

Q. I mean with reference to your business?—A. Yes.

Q. Do you know the Chess Carley Company?—A. It is 'now out of existence and has been for some time.

Q. For how long?—A. I should say for a year.

Q. Who acquired that company?—A. The Standard Oil Company, of Kentucky.

Q. By purchase?—A. Yes, sir; by purchasing the remaining individual interest which had been held.

Q. And which is now owned by the Standard Oil Company, of Kentucky?—A. Yes, sir.

Q. Prior to their acquisition of the entire interest and obliteration of the old firm did the Standard Oil Company, of Kentucky, have an interest in the business of Chess Carley Company?—A. The Standard Oil Company, of Kentucky, was formed to succeed to the business. We formerly, through trustee, owned an interest in the business firm of Chess Carley Company.

Q. To what extent?—A. I think one-half.

Q. For how many years?—A. I could not state.

Q. Five or six?—A. Yes, sir.

Q. Or more?—A. I should say that long.

Q. At least?—A. Yes, sir.

Q. Who supplies the Pacific coast?—A. The Standard Oil Company, of Iowa.

Q. Are there any refineries in existence on the Pacific coast?—A. Yes, sir; there are a number of refineries there built for the purpose of refining California oil.

Q. Where is that oil obtained?—In southern California.

Q. How is it brought to market, by railroads or pipe lines?—A. By pipe line to the railroad.

Q. Have you any interest in any of them?—A. No, sir.

Q. That is an independent interest?—A. Yes, sir.

Q. What is the amount of production?—A. Four hundred barrels a day.

Q. It is small?—A. Yes, sir.

Q. What is the production of the Maxburgh oil field in Ohio?—A. The present production I think is 600 or 700 barrels a day.

Q. What is the present production of the Lima field?—A. About 17,000 barrels a day.

Q. Do you supply tankage for that?—A. Yes, sir.

Q. And hold it above ground?—A. Yes, sir.

Q. Are they flowing or pumping wells?—A. Many of them flow, some of them pump.

The committee then, at 5.45 p. m., took a recess until 8 o'clock p. m.

EVENING SESSION.

The committee re-assembled at 8 o'clock p. m.

By Mr. GOWEN:

Q. Mr. Archbold, I asked you this afternoon whether you remembered a meeting with officers or agents of the trunk lines upon the question of fixing rates of freight after the Tide-Water Pipe Line Company had started, and I located the place at Saratoga. Do you know of any

meeting of that kind having been held any place else?—A. I was never present at any such meeting, and have no definite knowledge of any such meeting.

Q. Have you any indefinite knowledge?—A. No, sir.

Q. For how many years had you charge of, or were you connected with, the question of arranging freights with the railroads?—A. Ever since my relation with the business.

Q. Whom did you meet on those subjects?—A. Usually the different freight agents of the different roads.

Q. Do you remember any meeting at Niagara Falls upon that subject at any time?—A. I never was present at any meeting at Niagara Falls.

Q. Now, am I to accept your answer made before dinner that you can not now recall any particular rate of freight or drawback which you had, as true?—A. No, sir; I would not undertake to state from memory the record of any rate at any time.

Q. You do not know how it was, then, \$10 or 10 cents a barrel at any one time?—A. That is a very wide range.

Q. Yes; because I think it takes a very wide range to bring you to any knowledge of anything you do not want to answer.—A. I shall not testify to anything I do not know.

Q. Can you remember whether it was \$10 or 10 cents at any time?—A. I have no recollection of either of those rates.

Q. Have you any recollection of any rate whatever that you ever paid in your life?—A. At a given period?

Q. Any period.—A. Yes, sir; I have.

Q. Name us any one.—A. The rate now prevailing from New York to the oil section—the Bradford section—is 45 cents per barrel, and from the lower country 55 cents to New York.

Q. How long has that been the rate?—A. For several years.

Q. How many?—A. I should say four or five years.

Q. Is that the railroad rate?—A. It was.

Q. Is it also your pipe-line rate?—A. It is.

Q. You have the same rate upon your pipe line that they have upon the railroad?—A. Yes, sir.

Q. In addition to that rate upon your pipe line, which is identical with the railroads, you also received upon your local pipeage 20 cents a barrel?—A. Yes, sir.

Q. Then you received from the lower region to New York upon your pipe line 75 cents a barrel, and the railroads received 55 cents?—A. Yes, sir.

Q. And from the upper region you received 65 cents and the railroads 45 cents?—A. Well, the local service is a distinct feature. The service for the so-called through lines is the same, 45 and 50 cents. The 20 cents is distinct. The railroads have no part in that.

Q. You received that?—A. The pipe lines do.

Q. As well as upon what you shipped, because they must rely upon you for getting their oil at the initial point of their railroad. Is not that so?—A. Yes, sir.

Q. Now, do you remember the period at which the Empire Transportation Company was the carrier of oil upon the Pennsylvania lines?—A. Yes, sir.

Q. State whether or not your company or your interests did not object to them as carriers by reason of the fact that they also engaged in refining?—A. We objected to their going into the refining business on the ground that as a common carrier they had no right to do so. They had no right to be competitors with their shippers and manufacturers.

Q. What difference did that make to you?—A. It made this difference, that it was fair to presume that if they were themselves also manufacturers their facilities would be first used by themselves and to our exclusion.

Q. Did you think that was an injury to you?—A. We did.

Q. In what respect?—A. In respect to the general prejudice of our business and its proper conduct.

Q. How would they have interfered with your business?—A. By the use of their facilities for their own refineries to our exclusion.

Q. In other words, you thought that they being interested on both sides of the question, whereas you were only interested on one, they would use their interests as transporters to benefit themselves as refiners to your injury as competitors?—A. Yes, sir.

Q. In consequence of that you united with the Pennsylvania Railroad, or facilitated the Pennsylvania Railroad, in acquiring the possession of their property, did you not?—A. We were a party to the general negotiation in respect to the refining feature of it; yes, sir.

Q. You thought at that time you had as manufacturers a just right to complain of any common carrier upon whom you were dependent for your supply of oil engaging as a refiner in antagonism to yourselves?—A. Yes, sir.

Q. Now the boot is on the other leg, and you are the carrier of 75 per cent. of oil, and yet you are engaged in active competition as a refiner with the people who can only get oil through your line or over the railroad?—A. There is no person in the business but who can get oil aside from our lines.

Q. How?—A. By the railroads.

Q. But at the time the Empire Line was in business as a carrier of oil there were other railroads over which you could have had oil, were there not?—A. The Empire Line employed all the equipment of the Pennsylvania road.

Q. Any of the New York, Erie, and Pennsylvania Central?—A. No, sir.

Q. Any of the Baltimore and Ohio?—A. No, sir.

Q. Any of the Atlantic and Great Western?—A. No, sir. All these lines, besides the Pennsylvania, did not have sufficient equipment to do the business.

Q. Now, at the time you were dependent solely upon the railroads for your transportation, it was important for you to have as low a rate as possible upon your oil, was it not?—A. Yes, sir.

Q. That you considered a fair business operation?—A. Yes, sir.

Q. That was the main point, was it not, in your endeavor in dealing with railroads to get the lowest possible rate?—A. It was.

Q. Now that you are engaged as a transporter of oil yourself by a pipe line, it becomes your interest, does it not, to maintain a high rate upon the railroad?—A. It becomes our interest to maintain a fair rate, a reasonable rate, and there has only been a reasonable rate for many years past.

Q. But you were quite willing, when you could get it, to take a rate which was unreasonable in itself?—A. The method of the pipe line is an improvement for carrying the oil to get the rate on transportation on oil at a normal point, at which they have stood now for some time.

Q. State whether or not your company has not an agreement with the Pennsylvania Company by which you guarantee to that company a fixed proportion of the business of the oil trade?—A. We have such an agreement; yes, sir.

Q. Can you tell us what that proportion is?—A. I can; yes.

Q. What?—A. Twenty-six per cent.

Q. Since that agreement was made the rates of oil upon your pipe line and upon the Pennsylvania Railroad have been identical, have they not?—A. I think they have.

Q. There is now no earthly reason whatever to have any competition between your line and the railroad in consequence of the fact that you have an agreement that divides the business on a pro rata or proportion?—A. I do not see any reason.

Q. In other words, under your contract with the Pennsylvania Railroad which guarantees to them 26 per cent. of the oil, if they should attempt to compete with you and reduce the price, they would not, under your agreement, be entitled to any more than 26 per cent. of the business?—A. No, sir.

Q. Therefore every reduction of price that they would make, so long as they maintained the agreement with you, would be an injury to their treasury by taking that much money out of it?—A. I should think it would.

Q. They have therefore now no longer, assuming the maintenance of the agreement of which you have spoken, any inducement to decrease rates for the purpose of increasing their business?—A. They have not.

Q. Now, that being the case, is it not greatly to your advantage as a transporter of oil through the pipes, that the rates of transportation by railroad and pipe line, assuming that they are to be identical, should not sink to a low point?—A. As I have before stated, I think the rates are at a reasonable point, and a point below which the railroads have no incentive to cut them for an increase of their traffic. I believe the Pennsylvania Railroad Company has, as I am informed, at different times during the past two or three years, taken the ground that the traffic, even on this basis, was not a profitable one to them; one that they did not care to have.

Q. But do you not know that there have been times when the Pennsylvania Railroad, instead of getting 45 and 55 cents respectively for the transportation of crude oil to tide-water, have received as low as 15 cents a barrel?—A. I do not know of any freight as low as that. There may have been short periods of active strife when the rates were reduced below the present figure for a very short period.

Q. What is the lowest rate that you can recall to your recollection as having been paid by you for the transportation of crude to tide water?—A. I have no recollection of a rate much lower than the present at any time.

Q. Have you any recollection of any lower rate?—A. Not for any period.

Q. For a week or a month?—A. I do not recall that.

Q. Don't you know as a fact that when the Tide-water Company opened its line as a competitor to you, that the railroad put the rates down to 15 cents a barrel?—A. I do not.

Q. You think not?—A. I think not.

Q. Now, the system of carrying oil by pipe line is, as Mr. Flagler has testified, with reference to the Lima pipe, a very much cheaper way of moving it, so far as cost is concerned, than a railroad, is it not?—A. Yes, sir.

Q. I do not know whether you know, but I will ask you, whether you do not know that the lowest rate of cost which a company of the size of the Pennsylvania shows as the cost of moving freight, is about four mills a ton a mile. Do you know that?—A. I know very generally, but I am not a student,

Q. You know that fact?—A. Generally.

Q. What is the distance from the lower field to New York over which this rate of 55 cents on the railroad exists?—A. I think about 500 miles.

Q. Four mills a ton a mile on 500 miles would be \$2, would it not?—A. I think it would.

Q. In the trade do you not count roughly seven barrels of crude oil to the ton?—A. I think six we figure.

Q. Six for a gross ton?—A. Seven for a gross ton. I do not think railroads carry freight by the gross ton.

Q. But their estimate per ton per mile is made up on gross tons; most of the railroads do which carry heavy freight; I do not know whether the Pennsylvania does or not. But assuming it to be the gross ton, seven barrels for \$2 would be 28 and a fraction cents per barrel?—A. Yes, sir.

Q. That would be, therefore, the cost under the best circumstances of a railroad company moving oil?—A. That would be the cost of hauling the cars. They would have to haul the cars there and back again the same distance.

Q. That is included in the cost according to all railroads. They simply divide the amount of money they have spent out in maintaining their business by the number of tons they have hauled. That amount of money includes the service of pulling the cars back?—A. You know best about that.

Q. Don't you know it?—A. I do not. I do not know what the methods are of figuring the cost.

Q. Assuming 28 and a fraction cents a barrel as the net cost of moving oil 500 miles, what do you assume to be the net cost of moving it by pipe line 500 miles?—A. I am not prepared to answer that question. I do not regard the business as having come to a point to give an intelligent answer to that question.

Q. You have been engaged in that business many years?—A. Yes, sir.

Q. Do you mean to say you have no data by which you can ascertain the cost of moving that by your pipe line?—A. I mean to say, the business is one of undetermined hazard. We have not come to know in the life of the business what the actual cost is.

Q. Don't you make up yearly statements which show the amount of money you have invested in that plant, the pipe line; the amount you have paid out annually for its operation, and the total number of barrels that have passed through it?—A. No doubt we do make up at stated intervals the operating cost. It is easily arrived at. The oil field is constantly changing, and that which is an important factor to-day may in a few weeks from now, if you please, prove to be an abandoned field, and the expense as a whole in attempting any comprehensive system of pipe lines in the handling of this oil is one which is yet undetermined.

Q. But you have had at least six or seven years' experience in that business?—A. Yes, sir.

Q. The fields have not been abandoned within that time, have they?—A. Parts of them have. We have spent in one year several hundred thousands of dollars, and within that year it was an abandoned investment.

Q. What do you estimate the cost per mile of a 6-inch pipe laid under ground?—A. Perhaps \$5,500 or \$6,000.

Q. Is it as much as that at the present price?—A. I don't know what the present price of 6-inch pipe is. I think it is 85 or 90 cents a foot,

besides the laying, rights of way, machinery, tankage, and all the equipment.

Q. Six-inch pipe is not 90 cents a foot at present?—A. I do not think it is far from it.

Q. That would be about \$4,700 a mile?—A. For the bare pipe.

Q. Six or eight hundred dollars will lay it down easily, will it not?—A. I suppose so; but there is your machinery, tankage, equipment, and right of way.

Q. How much did you say?—A. Sixty-five hundred dollars a mile.

Q. Now, then, your pipe line has already lasted seven years?—A. The through trunk pipes have.

Q. And your local lines in the oil region, some have been in existence twenty years?—A. Some parts of them have.

Q. Even if a pipe line were only to last ten years, it would follow, therefore, that 10 per cent. wiped off every year for depreciation would restore your capital, would it not?—A. I should say so.

Q. Don't you think it is very safe to assume ten years as a reasonable life of the business in the pipe line?—A. I should say ten years was a very full figure to fix.

Q. You have already had seven years?—A. Seven years; yes.

Q. And you have stored in the Bradford region now, or had at the end of the last year, a surplus product that was greater than one year's whole product?—A. We are facing to-day a very rapid exhaustion in the Bradford field, an exhaustion that means the rendering of that vast section in connection with that field of a very questionable value.

Q. If 10 per cent. per annum for the last twenty years had been taken off for depreciation it would have destroyed the production of local pipage in the oil region?—A. I do not think so.

Q. Five per cent. in twenty years will return the capital?—A. There has been no capital for twenty years since the production of the Bradford field.

Q. You have had over twenty years in the lower field?—A. Not in the pipe service.

Q. How long in the pipe service?—A. Not in any comprehensive way.

Q. State for how long.—A. Have I?

Q. No. How long has this company been in, the United Pipe Line?—A. I should say since 1873 or 1874.

Q. That is fourteen years already?—A. Yes, sir.

Q. Don't you consider the experience of fourteen years in that and seven years in your pipe line has enabled you to ascertain what sum should be wiped off of your capital account every year for depreciation in order to restore your capital by the time the business was done?—A. Our early relation to the business was entered into at that time. The field in which it entered is practically exhausted, and that investment is substantially without value to-day. The large investment in that earlier relation to the business has been a constantly changing scene in relation to the pipe line in the oil region.

Q. Six thousand dollars a mile for 500 miles is only \$3,000,000?—A. Yes, sir; that is, for one line.

Q. And each line of that kind, if run to its fair and full capacity, would handle 10,000,000 of barrels a year, would it not?—A. I do not think as much as that.

Q. According to Mr. O'Day's testimony I should think it would do more than that if it were worked to its capacity?—A. It would not.

Q. Do you mean to say through one of your lines to New York you can not put 10,000,000 of barrels a year?—A. No, sir.

Q. How much can you put?—A. I should say with one 6-inch line, 6,000,000 or 7,000,000 of barrels would be a large estimate.

Q. Well, take it at your lowest figure, 6,000,000 of barrels a year. That is on an investment of \$3,000,000. Now, if that only lasted ten years and you threw off 10 per cent of the capital every year, it would be \$300,000. It would only take 5 cents a barrel to restore your capital at the end of ten years, would it not?—A. You are proceeding on a basis that is entirely unsafe and unjustified by the experience of the business. There are other collateral features that enter into the question that are of very great importance, and must be considered with it.

Q. What other collateral questions can there be which have any influence upon a mere arithmetical calculation to find out how many cents a barrel on a given investment will restore your business in ten years?—A. The equipment necessary to do the business, the tankage, and the machinery involved in it are necessary collateral features.

Q. How can the tankage in the oil region, for which you receive a separate compensation, and which is in no way connected with the through transportation of oil on the main line, affect your estimate of the question when you come to deal with the main line as a transporter? You get 20 cents a barrel for your local pipage?—A. Yes, sir.

Q. And in addition to 20 cents a barrel for local pipage you get a certain sum per month for storage in the tanks?—A. Yes, sir.

Q. Now, leaving out these local tanks and pipe lines, must you not admit that on a business of 6,000,000 barrels of oil a year on a pipe line which cost \$3,000,000 5 cents per barrel will restore your capital at the end of ten years?—A. If you can run the line steadily, and without extending its connection in order to reach supply. That you can not do without bringing into play the best system of tankage and reserved stock. This whole line of machinery is necessary to the transaction of the business.

Q. Now, we will leave the main line and go into the local region and see if there is any risk in the local. I want to find out whether there is any such risk to enter into the calculation of the through lines. Now, you receive 20 cents a barrel for transportation over your local lines?—A. Yes, sir.

Q. What rate do you receive for storage?—A. The present rate is 25 cents a barrel a day; about 8 cents and a fraction per barrel a year.

Q. What do you mean by 25 cents a day?—A. On a thousand barrels of oil a day.

Q. That would be, counting Sundays, about 8 cents a barrel?—A. Yes, sir.

Q. You collect for Sundays?—A. Yes, sir.

Q. Now, then, a 30,000 barrel tank cost you about \$7,500?—A. Yes, sir; now—earlier in the history of the business it cost more.

Q. If you have 30,000 barrels of oil at 8 cents a barrel stored in a tank for a year, your revenue from that is \$2,400?—A. Yes, sir.

Q. On an investment of \$7,500?—A. Less whatever the loss may be in the depreciation of the oil in quantity.

Q. By evaporation?—A. Yes, sir.

Q. There is a percentage allowed for that that is known and fixed; what is it?—A. There is no percentage allowed for that.

Q. When you give a man a certificate for a thousand barrels put into your line, and he has paid storage on it how many barrels do you give him?—A. We give him the same amount.

Q. And he pays on that amount?—A. Yes, sir.

Q. No matter what the depreciation may be you get your full storage payment, do you not?—A. Yes, sir; but we must make good the depreciation.

Q. What is that?—A. It has amounted to a vast sum.

Q. What is it per barrel?—A. I can not state how much it is per barrel. We have made it good at stated intervals on hundreds of thousands of barrels of oil.

Q. Because your business has amounted to hundreds of millions of barrels?—A. Yes, sir.

Q. Can you tell me how much it has been per cent. per annum?—A. I can not answer the question.

Q. What was the capital invested in the United Pipe Lines, leaving out the main lines of pipe?—A. Do you mean capital stock?

Q. No; I mean the actual money.—A. No, sir.

Q. What was the capital stock then?—A. Five millions of dollars.

Q. How many miles of pipe does that represent?—A. That I can not answer.

Q. Don't you know that?—A. No, sir; I do not.

Q. Surely you know that. Don't you know how many miles of local pipe you have?—A. I do not.

Q. Have you 500?—A. I should think very much more than that.

Q. Have you 700?—A. I should think a great deal more than that; several thousands, probably; but I can not answer the question—several thousands of miles.

Q. What is the largest amount per annum that has passed through your united pipe lines; how many millions of barrels?—A. I think about 22,000,000.

Q. Now, one other question. Does this capitalization of \$5,000,000 cover investments in tanks as well as the tanks belonging to the United Pipe Line?—A. The tanks belong to the system proper, but the great body of storage tankage is not owned by the pipe line.

Q. Who owns that?—A. The National Transit Company; and, as you have already been informed, the United Pipe Lines.

Q. I want to know whether this capitalization of \$5,000,000 covered the investment in the tanks as well as in the local pipes?—A. No, sir.

Q. Now, if you take 20,000,000 barrels a year through a system of pipes, the capitalization of which is but \$5,000,000, and receive 20 cents a barrel for that pipe, you are getting 80 per cent. of your capital in one year?—A. Five millions of dollars don't represent the cost or the valuation. That was the limit at which the capital of such a corporation could go under the laws of the State of Pennsylvania. It was found to be utterly inadequate to the business, and we were perforce compelled to find a larger field for it, under a charter which enabled larger capital.

Q. That is the National Transit Company?—A. Yes, sir; and the National Pipe Line as a whole became part of the National Transit Line under its organization. Five millions of dollars was utterly inadequate to the needs of the business.

Q. How much represented the cost of the plant?—A. I say it was all in plant.

Q. Have you any statistics that you can get which will give us the exact cost of the United Pipe Lines up to the time they were turned over to the National Transit Company?—A. No; I have not.

Q. Who has them?—A. I can not say.

Q. Now, to go to another subject. I asked Mr. Flagler whether he would send us a list of the names and amounts, and the names of the

persons and the amounts issued of trust certificates of the Standard Oil Trust.

The CHAIRMAN. Are you quite sure that was the request? I want to be right about it. My recollection is you asked only for the names.

Mr. GOWEN. Did I?

The CHAIRMAN. Yes, sir.

Mr. GOWEN. I intended to ask for the amounts. (To the witness.) are you one of the trustees?

The WITNESS. Yes, sir.

Q. Were you from the beginning?—A. Yes, sir.

Q. Will you give us or get for us a list of the names and amounts held by each of the certificates of trust of the Standard Oil Trust?—

A. I will not.

Q. You will not?—A. No, sir.

Q. Why?—A. Because I will not give it to you.

Q. Why?—A. Because I don't think you have any right to it.

Q. Will you give it to the committee?—A. I shall hear first from the committee as to whether they want it.

Q. And if they do want it?—A. It will be time enough to answer at the time they decide whether they do or not.

Mr. CHOATE. Do you mean the amounts that were issued to the various companies that were brought in, or the individual holders?

Mr. GOWEN. The individuals who received it, including in that the names and amounts of the individuals that were embraced in the trust, the amounts held by the three trustees, Mr. Vilas and the other two gentlemen. (To the witness.) Will you give us that?

The CHAIRMAN. I think we have got to the same point we had before. The witness again expresses his unwillingness to do it, and puts himself in a position where the committee will have to decide.

Mr. GOWEN. I am willing to yield to that.

The CHAIRMAN. He states that it is a personal matter.

Q. Will you give us this information as to what proportion of the ownership of each of the individual corporations, trusts, and associations that were embraced in this Standard Trust is held by the Standard Trust, and what proportion of ownership is held by others? For example, take the Acme Oil Company for one. What is its capital?—A. Three hundred thousand dollars.

Q. What proportion of that capital is owned by the Standard Trust?—A. It is all in the Standard Trust.

Q. Then that would not be an illustration. Do you know of any company in which the Standard Trust only has a proportionate interest?—A. Yes, sir; there are a number of them set forth in the testimony which shows the proportion of each.

Q. A portion of the stockholders and members of the following corporations. Is there contained in that book a list which will show just what proportion of each of those companies the Standard Trust has, and what proportion is outstanding to other people?

Mr. CHOATE. That is in that.

Mr. GOWEN. Can I use that?

Mr. CHOATE. Yes, sir.

Q. In the agreement for the Standard Oil Trust there are three lists of associations or individuals or corporations, one of which says, "all the stockholders and members of the following corporations." Am I to understand by that that all the entire stock is held by the Standard Trust?—A. I believe so.

Q. Do you know it?—A. I have every reason to say so.

Q. The second is "the following individuals to wit, W. C. Andrews, John D. Archbold," and going down with forty or fifty. All their interest went into the Standard Oil Trust, and they received certificates for it?—A. Yes, sir.

Q. The next is "a portion of the stockholders and members of the following corporations and limited partnerships, to wit," beginning with the American Lubricating Oil Company, and running down to the Waters-Pierce Oil Company?—A. Yes, sir.

Q. Then do I understand that in those three lists there is stock outstanding in other people and not owned by the Standard Trust?—A. Changes may have occurred since; but this list is accurate.

Q. You have a pipe line to Buffalo that is laid along the line of the Erie Railroad, have you not?—A. I think it is not laid along the line of the Erie.

Q. Some portions of it are?—A. It may possibly cross the Erie road.

Q. It is not laid on the right of way?—A. No, sir; I think not.

Q. Do you know?—A. I do not think it is.

Q. Have you sufficient knowledge to answer the question?—A. I should say it was not.

Q. Now is your pipe line to New York laid upon the right of way of any railroad?—A. It touches at times the Erie road, and crosses the Erie road.

Q. Over what length?—A. A very fractional part.

Q. Does it not go 50 or 100 miles?—A. No, sir.

Q. How much do you suppose?—A. Not 10 miles altogether.

Q. Did you acquire the right to lay it by contract with the railroad company?—A. By an understanding with them.

Q. Did you pay anything for that to them?—A. No, sir.

Q. Nothing?—A. Nothing.

By Mr. SMITH:

Q. Is the Standard Oil Trust interested in any steamship or ship lines?—A. No, sir.

Q. Did the Standard Oil Trust have a contract with the Clipper Ship Lines, shipping oil around Cape Horn to the Pacific States?—A. No, sir; not that I know of.

Q. You are sure you do not know?—A. No, sir; I do not know. I never heard of it.

Q. Do you transport oil through your pipe as common carriers?—A. Yes, sir.

Q. Do the common carriers in Pennsylvania pay a tax to the State?—A. They do.

Q. On what?—A. On their earnings; on their dividends.

Q. On their gross earnings?—A. No, sir; I think it is on their dividends.

Q. Let us take the Pennsylvania Railway. How do they pay taxes?—A. I do not know; I do not run the Pennsylvania Railroad.

Q. They are common carriers and they pay a tax?—A. I have no doubt they do.

Q. Is it not well known in Pennsylvania that the railroad companies pay almost all the State taxes?—A. I do not know of any such knowledge.

Q. Have you ever been a resident of Pennsylvania?—A. Yes, sir; and I paid my share of the taxes when I was there. [Laughter.]

Q. Do you pay any taxes as other common carriers?—A. We certainly do.

Q. Then you might state to this committee on what you pay taxes.—A. We pay taxes on the dividends of the company.

Q. On the dividends?—A. Yes, sir; and on the property, real and personal, the same as any other corporation under the corporation tax laws of the State.

Q. Does not the Pennsylvania Railroad pay taxes on the amount of tonnage it conveys?—A. I do not know.

Q. Before you entered into that pipe line system—when I say “you” I mean the Standard Oil Trust, or its allies—you conveyed oil in tank cars, did you not?—A. Yes, sir.

Q. Were you the owners of those tank cars?—A. We were, to an extent.

Q. What arrangements had you with the Pennsylvania Railroad Company and its allies to transport those cars over their lines?—A. I do not think we ever run our cars over the Pennsylvania Road.

Q. Your tank cars?—A. Our tank cars.

Q. On what roads did you run them?—A. Over the northern lines.

Q. What were the northern lines?—A. Over the Erie and New York Central.

Q. Were not the oil fields nearer to the Pennsylvania line than they were to the Central and the Erie?—A. No, sir.

Q. Is there a district south of Pittsburgh?—A. Yes, sir.

Q. Is there a district north of Pittsburgh, near Pittsburgh?—A. Yes, sir.

Q. Has the Pennsylvania Railroad Company any lines in that district?—A. Yes, sir.

Q. Did it have at the time when you first entered into that business?—A. Yes, sir; it had lines.

Q. And you did not ship any oil over that line?—A. We did ship oil over their line and used their cars. They always furnished our tank cars.

Q. Did they have tank cars?—A. Yes, sir; they have still.

MR. GOWEN. The line known as the Green Line was owned by the Empire Transportation Company.

Q. Is the Union Tank Line your line now?—A. Yes, sir.

MR. SMITH. The reason I asked that question is because all the oil that comes into our city comes through that Union Tank Line.

By MR. BUCHANAN:

Q. During your testimony you have been speaking of the ownership of certain pipe lines to the sea-coast, and of an arrangement entered into between you and the railway companies for a common rate. What impediment, if any, exists in the way of capital willing to embark in the enterprise of constructing a parallel line to yours?—A. None whatever. It is very much freer than it was when we engaged in the business.

Q. Much freer?—A. Yes, sir.

Q. Freer in what respect?—A. When we were engaged in the business of laying a free line, there was no free pipe line in Pennsylvania as there now is. We had to buy the rights of way by private negotiations all the way through.

Q. Now the right of eminent domain is granted to everybody.—A. Yes, sir.

Q. So that in Pennsylvania, wherever capital is willing, it can lay down its pipe?—A. Yes, sir.

Q. Is it also the same with New York?—A. Yes, sir.

Q. Are you familiar with the law in that respect in New Jersey?—

A. I do not know whether it is in New Jersey or not. I think there is a free pipe line law in New Jersey.

Q. If that be the case, will you explain to this committee why it is that competing lines are not laid?—A. The most logical conclusion regarding the matter is that capital can not figure it out as a safe investment.

Q. But your capital has figured it out as a safe investment, has it not?—A. Well, the question as to whether new capital wants or is disposed to come into the oil business for the percentage of earnings we are willing to accept on the investment, is, I think, a very questionable one, and one that deters responsible parties, or a little capital, from engaging in it.

Q. But if capital constructed that line, what arrangement, if any, would be necessary for it to enter in it in order to obtain the oil to send to the sea-board?—A. No other arrangement than to reach the wells by a local system.

Q. How would they get the supply?—A. By going to the wells the same as we do.

Q. Does not your system of local pipage interlace that whole region?—A. It does; but if anybody can come there with a better service at a lower rate they can get it for the asking.

Q. Is the laying of local pipage also free under the law?—A. Yes, sir; entirely free to all commerce.

Q. What arrangements, if any, have your companies made that would prevent a free market of the products thus brought to market by the new line?—A. None whatever. The marketing of oil is a question of fractions as to finding a buyer. The man that sells it at an eighth of a cent a gallon the cheapest is the man that gets the business.

Q. So far as the exportation of oil is concerned, have you secured control of the methods of the instruments of transportation so as to prevent competition at that end of the line?—A. No, sir; no such control is possible to anybody.

Q. Why is it not possible?—A. Because the buyers of oil are altogether independent commission merchants, who figure to buy from the cheapest seller.

Q. Do you export any oil yourselves?—A. We do not. I say we do not. We had departed from a fixed rule in that respect only in one case. That is in the Turkish markets where the Russians have been most aggressive against us in trying to drive us away from the markets.

Q. And to that point you do ship oil?—A. We have shipped some oil.

Q. By what line of steamers?—A. Usually by sailing vessels. I have no recollection of shipping by steamers.

Q. Sailing vessels owned by yourselves, or chartered for the purpose?—A. Chartered. We own no vessels.

Q. Going into the markets and chartering those which afford the best service for the least money?—A. Yes, sir.

Q. I am asking these questions for information, because I desire to know whether there exists anything in the natural formation of the country in the supply of the oil in the laws of the States which you traverse, or in the business combinations which you have formed that would prevent capital entering into the same field and competing with you, and if there be anything whatever of that sort I desire to know it.—A. There is nothing of the kind. Our hold on this trade and our position in it is, we believe—and we believe we can show to any fair tribunal of inquiry—the result of the application of better methods and of better business principles than have been brought against us, and on that

basis only can we hold it or survive, and the people who come to tell you differently tell you that which is false, and which we can prove false to the utmost particular. They are people who have failed through their lack of ability to succeed, and who would not succeed under any circumstances. They are soreheads and strikers.

Q. Excuse me. I have not been pleased at all by some of the names which they have seen fit to apply, and I am not any more pleased by the counter-charges. I am not asking with reference to the business capacity of those who have failed, and who have ascribed their failure to your combination, but I am asking as to the situation which exists to-day with reference to the possibilities of competition with you.—A. And it is on that score that I am answering, that there is nothing in the conditions in any respect to prevent any one who sees fit from engaging his capital and energy in the business. If I might be allowed one more word, it would be to say that with all possible respect we have submitted to a range of inquiry in relation to this that we thought this committee would not have upheld, if we had appealed to it. But we are desirous of showing everything that enters into the merits of this case, and on that score we have no possible fear of the verdict of this committee with reference to our position as the promoters of this great American industry.

Q. Passing from that without comment, allow me to ask you how you account for the fact that a capital upon which a return is made to the amount spoken of by Mr. Flagler is allowed to remain the practical sole operative in this field?—A. It survives there by virtue of its better service, its superior service, and on no other basis. It has no presumptive right. It exercises no monopoly of franchise. It occupies no field to the exclusion of any other corporation, individual, or firm. It is as free as air. Any man who has ability and capital can engage in the business.

Q. Testimony has been offered with reference to the payment to your trust—I understand you to be one of the trustees—of rebates by the Pennsylvania, and perhaps other railroads. What information have you to give us as to the payment of such rebates?—A. I have to say to you that having hurriedly looked over some of the statements made here I think your committee is deserving of commiseration in having listened to the worst balderdash that was ever put forward.

Q. I am not asking for a speech; I am asking for the specific facts within your information.—A. The specific facts are false.

Mr. GOWEN. You say that under oath.

The WITNESS. Yes, sir.

By Mr. BUCHANAN:

Q. Do you mean to say to this committee that no one of these roads has paid to the Standard Oil Company a rebate upon the oil which they carried?—A. I say for a long period a system prevailed on the railroad by which a rebate was paid; but any such amount as has been foolishly stated here, of \$100,000,000 and \$250,000,000, is absurd in the extreme. A man must be out of his mind to make such a statement.

Q. Having denominated it as being enormously overstated, please indicate what it was.—A. It is utterly impossible for me to make any statement regarding the matter. The question is one covering a wide range, and such a mass of detail as would be difficult indeed to compile. But the whole thing is overstated, and has been always absurdly.

Q. But we have accurate information, as accurate as possible. If you impugn the information which has been already given it would be of

more value to the committee if you would give us the basis upon which you impugn it.—A. I can impugn it very much more concisely, and within a very much safer range than the statements made. I am without positive detail of the compilation of any such line of inquiry as would enable me to make a specific statement.

Q. Can you give the committee any reason for the railroad companies paying you this rebate?—A. The railroad companies exacted of us always the very utmost of price in transportation that it was possible for them to exact.

Q. I am not speaking of their exactions; I am speaking of their returns to you.—A. I am speaking of the freights paid on oil traffic.

Q. Why did they give you these rebates?—A. The system prevailed during a very considerable period, as I have already stated in the earlier examination, of fixing a nominal rate; as, for instance, a statement is made up at which, if you please, the rate was \$1.90. Everybody knows it was only a nominal rate. Every shipper disregarding that schedule went and made a special arrangement for his traffic on the best terms possible. We were no exception to that rule. We never originated it. We were not a party to any railroad company or official in respect to it. We operated under it as every other shipper did.

Q. Do you mean to be understood as saying that in your dealings with these companies they made the best terms it was possible for them to make under the circumstances?—A. They made the best terms with us, and we with them, and we have at no time made an arrangement that excluded them from the privilege of extending the same terms to other shippers. I have no doubt that every shipper could have made, and did make, equally as favorable terms as we did with the railroad companies. I have no doubt of it at all.

Q. We have had conjectures already before the committee from different ones. I am trying to get down to the solid regions of actual fact, and let us remain there if possible. Now, you were paid such a rebate, and you were paid that not only upon the oil which you shipped, but also upon the oil which others shipped.—A. No, sir.

Q. It has been stated here before this committee, broadly, that such was the case. Do you speak advisedly and with consideration when you say it is not correct?—A. I have no knowledge of any such case.

Q. But have you knowledge that such was not the case?—A. I do not believe that any such case of the kind ever occurred in which we were paid any rebates on other people's shipments.

Q. Did not your contract with the railroad companies require them to pay you a rebate on all oil they carried from whomsoever obtained?—A. No, sir.

Q. What benefit to the public, if any, arose from these payments to you of these rebates?—A. There is no manner of doubt but that the rate of freight, under whatever name it was reached, whether by a lessening of the open rates or by a repayment of a part of the rate, always went to the benefit of the public.

Q. In what way?—A. No large manufacturer having the cost of taking his goods to market reduced but that in his anxiety to sell his goods gave that reduction of cost to the buyer.

Q. Did your company, in fact, do so?—A. They did, as a matter of fact, in my judgment, in every case. I think the whole system was a vexation. It was not one that we upheld or profited by, in my judgment, to any degree whatever. The whole rebate system, in whatever way it came about, was simply another name for a reduction of tariffs.

that meant cheaper goods to the consumer. Instead of being a curse to the public at any time, it proved to be a benefit.

Q. Do you mean to say that a continuation of this rebate by the companies would result in a benefit to the public generally?—A. I mean just that. I mean that the payment of a rebate on the oil-trade traffic resulted in cheaper oil to the consumers.

Q. At the expense of whom?—A. If you call it an expense, at the expense of the railroad; if you call the reduction of their rate an expense to them. I have no knowledge of their having carried the oil at a loss, however.

Q. It has been intimated before the committee that some of the officials of these roads making these rebates had an interest in the money thus returned. What knowledge, if any, have you upon that subject?—A. So far as my knowledge goes, and it has been acquired from many years' experience, I have no possible knowledge of any single case of the kind. The statement is one of the class of mendacious lies that have become current with certain men. There is not a scintilla of foundation for them.

Q. Have you been placed in a position to speak with any degree of confidence as to this?—A. I have. A man who would make such a statement as that ought to be prosecuted for libel.

Q. You speak of a loss by evaporation in the tanks; I do not know that I clearly understood you. The impression that I gathered from what you said was that this loss by evaporation in the tanks fell entirely upon your company?—A. Yes, sir.

Q. Well, is not that the least valuable part of the oil?—A. No, sir.

Q. Are not the first products of distillation the least valuable?—A. No, sir; they are to-day the most valuable.

Q. What is the first product of distillation of petroleum?—A. Naphtha, gasoline.

Q. You were asked with reference to the rate common to yourselves and to the Pennsylvania Railroad Company. I will extend that inquiry a little further, and ask you if it is the case that there are other railroads transporting oil to the sea-board as well as that road, and, if so, whether you have a rate common with them?—A. Yes, sir.

Q. The Lehigh Valley Railroad transports oil by cars to the sea-board, does it not?—A. I believe it does.

Q. And the New York Central as well?—A. I think it does.

Q. Do they obtain their oil from you?—A. No, sir.

Q. Is their rate common with yours?—A. Not to my knowledge.

Q. Is the rate of the Lehigh Valley a common one with yours?—A. Not that I know of.

Q. Is it higher or lower?—A. I do not know what it is.

Q. Do either one of these roads enter into competition with you in the transportation of oil?—A. They do.

Q. What facilities has the Lehigh Valley Railroad for obtaining oil in the oil region other than by your lines of pipe?—A. Their business is, I believe, almost exclusively, if not exclusively, that of carrying refined oil in barrels.

Q. I beg your pardon, but having lived for a number of years in the regions traversed by the extension of the Lehigh Valley Railroad, I have noticed many trains of tank cars upon the road, and it was for that reason I was asking you. How is it in the case of the New York Central? Do you know where they obtain their oil?—A. I think from the Tidewater Pipe Line.

Q. Is that in competition with you?—A. It is.

Q. Is its rate common with yours ?—A. I believe its rates are the same as ours.

Q. Is refined petroleum ever conveyed in tank cars ?—A. Oh, yes.

By Mr. SMITH:

Q. I would like to ask you one or two more questions. Is the Standard Oil Trust incorporated as a whole ?—A. It is not incorporated at all.

Q. In your testimony you stated that the field of conveying oil to the sea-board is open to all who wish to engage in that business, providing they have the necessary capital and ability. Did you have at the start the necessary capital and ability ?—A. I think we must have.

Q. You had the ability, did you ?—A. It would seem so.

Q. And the capital ?—A. It would seem so.

Q. If you, as you have stated, gave every person a chance to convey oil over your line at the same rate as the railroad companies, how is it then that most of the refiners in the great district of Pennsylvania have been forced out of the business ?—A. Well, they have not been.

Q. But I believe we have testimony here that there has been quite a number ruined, forced into bankruptcy, squeezed out, as they call it; there were half a dozen titles to the way of getting out of the business. How is that; you seem to be so benevolent ?—A. The number of refineries in the oil region has doubled since the formation of the Standard Oil Trust.

Q. Who owns them ?—A. Various parties.

Q. Connected with the Standard ?—A. Not in any way.

Q. Do you handle their oil ?—A. No, sir.

Q. Do you pretend to say that you do not handle the oil from the Pennsylvania oil districts ?—A. We do handle oil from Pennsylvania.

Q. Do you handle the majority of that oil ?—A. We do.

Q. Do you own those wells yourselves ?—A. No, sir.

Q. Then you get oil from the producers do you not ?—A. We buy oil from the producers; yes, sir.

Q. You buy it ?—A. Yes, sir.

Q. You are aware that there has been a great many of these producers who have gone out of the business or have been squeezed out ?—A. I am not; I am not aware of it.

Q. Have you not lived or been in the neighborhood of that oil district ?—A. I have.

Q. You certainly ought to know that some of those men have closed up ?—A. Producers?

Q. Refiners ?—A. Some of the primitive little refineries started in the early history of the business have, in the development of the business, gone out and others have taken their places.

Q. We have the testimony here from refiners that they were doing a tip top business until about 1874 ?—A. The Standard Oil Trust was not formed until 1882.

Q. Was there not some institution ahead of that ?—A. The Standard Oil Company did the business earlier.

By Mr. GOWEN:

Q. Did I understand you to say to Mr. Smith that since you have commenced business the number of refiners independent of you has doubled ?—A. I think they have fully doubled.

Q. When you commenced in 1870, what per cent, of the oil trade did

you control in the refining branch of it?—A. Do you mean me as an individual?

Q. The Standard Oil Company when it commenced?—A. There was not any Standard Oil Company until 1875.

Q. In 1875 what proportion of the oil trade did you control?—A. I could not answer the question.

Q. Twenty per cent?—A. Oh, yes.

Q. Thirty per cent?—A. Oh, I think more than that.

Q. In 1875?—A. I think so; yes, sir.

Q. You did not get that 30 per cent. in one day?—A. I came into the Standard Oil Company, of course, long after it went into operation.

Q. When it first went into operation as a refiner, what percentage of the oil trade did it control?—A. Very small percentage.

Q. One per cent.?—A. I think more than that.

Q. Was it 2 per cent?—A. I think more than that; Mr. Flagler testified to it here to day.

Q. He said six hundred barrels a day. What percentage at that time was that of the oil trade?—A. In 1870?

Q. Yes?—A. Well, it was, I should say, about 10 per cent.

Q. In 1870, 10 per cent?—A. Yes, sir. I should think the business did not average over ten thousand barrels a day.

Q. Was not the business in 1870 two millions a year?—A. Two millions a year would be less than seven thousand per day.

Q. Was it not over two millions in 1870?—A. I don't think very much.

Q. And now you control 75 per cent. you say?—A. Yes, sir.

Q. Therefore it can not be possible, even if you had 10 per cent. when you started and have now 75 per cent., that the relative proportion of independent refiners had increased?—A. I said the number of the refiners in the oil region since the formation of the Standard Oil Trust had doubled.

Q. But only since the formation of the trust?—A. Yes, sir.

Q. That is, the number in the oil region has doubled?—A. Yes.

Q. But since the formation of the Standard Oil Trust, in 1882, have you lost any of the percentage of the business you then had?—A. Well, I think we are doing a less percentage of the business somewhat now than then.

Q. How much less?—A. Perhaps not much less.

Q. One per cent.?—A. I could not state that exactly.

Q. But you stated a great many things here when questioned by Mr. Buchanan with very great exactness and positiveness. I would like you to answer me whether, since 1882, you have lost or gained in your percentage of the oil trade?—A. Well, I should say that we have lost.

Q. How much?—A. I should say several per cent.

Q. Since that time you have bought a minority interest in the Tide-Water Pipe Line?—A. But we have suffered the creation of the majority interest.

Q. What do you mean by "suffered the creation of the majority interest"?—A. That is, it has taken its place in the trade.

Q. Not since 1882?—A. Well, it was in 1880, was it not?

Q. It was before 1880, was it not?—A. I have forgotten.

Q. The number of refiners which may have increased in any particular locality like the oil region does not necessarily require that you should have lost your percentage of the trade, does it?—A. Well, they have come in, and are competitors with us for the business. And not in the

oil region alone; there have been considerable increases in other localities.

Q. But you admit that you have to-day 75 per cent. of the business?—A. I think so.

Q. And in that you do not include your share of the Tide-Water Pipe Line?—A. No.

Q. That would be about 4 per cent., would it not, of the whole business?—A. Three or four.

Q. Do you include in that 75 per cent. of the business the amount of crude oil which you may ship abroad?—A. Well, I count that we do not refine that.

Q. That is not included in the percentage?—A. No, sir.

Q. What percentage of crude do you ship abroad?—A. I can not state the amount.

Q. You ought to know better than I do; you certainly know something about it.—A. I should say 6 or 7 per cent.

Q. That must be added to your 75 per cent. of refined?—A. That 6 or 7 per cent. may or may not go through our pipes; we do not refine it.

Q. The 75 per cent. refers only to that which you refine?—A. Yes, sir.

Q. Then you have, as you admit, 3 or 4 per cent. by reason of your interest in the Tide-Water Pipe Lines, which is your principal competitor—in magnitude I mean?—A. Yes, sir.

Q. Now, then, you have 5 or 6 per cent. of the total production which you ship abroad?—A. We do not ship abroad.

Q. You sell it?—A. Yes, sir; it is bought.

Q. It comes through your pipe?—A. It may or may not.

Q. If not through your pipe, how does it get to the market?—A. By railroad or by the Tide-Water Line.

Q. Some of your own oil which you refine comes by the railroads also?—A. Yes, sir.

Q. A considerable proportion?—A. Yes, sir.

Q. Because you give them 26 per cent. of the whole. Now, I want to know whether this 5 or 6 per cent. of the crude oil which you send abroad has not to be added to the 75 per cent. you refine and the 3 or 4 per cent. in the Tide-Water Company in order to determine the total percentage of the entire production that you deal in or control?—A. Well, it may amount to a greater percentage than the 75 per cent. run through the pipes.

Q. Answer the question.—A. I do not get the drift of your question. It is a little involved, I think.

Q. I am trying to make it clear. You have answered that you refined about 75 per cent. of the total product of all in this country?—A. Yes, sir.

Q. And also that you have 3 or 4 per cent. of the product by reason of your minority ownership in the Tide-Water Company?—A. Yes, sir.

Q. And also that you handle about 5 or 6 per cent. of what goes abroad?—A. I have not stated that we handled it, but that it went abroad.

Q. You get your percentage, when it goes abroad, through your pipes?—A. We may or we may not; they are competitive pipe lines.

Q. But if it goes abroad it must go to tide-water, either through the pipes or the railroad?

Mr. BREWSTER. If you will allow me, Mr. Gowen, I will show you where the mistake comes in. He means to say that the Standard refines 75 per cent. of the unit of what is refined, not of the crude.

The WITNESS. Yes; that is what I mean.

Mr. GOWEN. Did you mean to say that only 6 per cent. of the entire product of oil goes abroad as crude?—A. Six per cent. of the entire crude oil is shipped to be refined abroad.

Q. How many millions of barrels go annually abroad?—A. Three and a half millions. I speak in round numbers.

Q. That would be about 6 per cent. of the total shipment?—A. Yes, sir.

Q. Of that 6 per cent. of the total shipment of crude oil you must get the business, under your contract with the railroad, of 75 per cent. of it. You give the railroad 26 per cent., and you get the other 74?—A. If it is shipped over the railroads it is under our guaranty.

Q. But you get 74 and they get 26 per cent. of the entire amount that moves eastward?—A. We may get 74 per cent. and we may not.

Q. Why?—A. There are other lines competing for business.

Q. Eastward?—A. Yes, sir.

Q. Who?—A. The Lehigh Valley Railroad carries some oil.

Q. Do you not know that the Lehigh Valley does not carry any except what it gets from other trunk lines?—A. No, sir; I do not.

Q. Does it not get its entire amount from the Pennsylvania Railroad?—A. I suppose it does.

Q. Is not that part of the 26 per cent.?—A. I suppose it is.

Q. Do not you know that the Pennsylvania Railroad out of the oil which you give to them gives a certain amount of it which goes to New York to the Lehigh Valley Railroad, at a place called Tomhickon?—A. Yes, sir.

Q. Then the Lehigh Valley road is not an original factor, but simply aids the Pennsylvania Railroad in moving to the Bay of New York a certain portion of the oil?—A. I do not think the Pennsylvania oil goes by the way of Tomhickon now. I am not sure, but I do not think it does. They run over their own line now. I do not know what this oil Mr. Buchanan speaks of as going over the Lehigh Valley—crude oil—can be. I have no knowledge of any oil going that way.

Q. Do not you know that within a year or two a great deal of oil has gone over the Lehigh Valley Railroad from Pennsylvania to New York?—A. There was a period before the Point of Rocks Railroad was completed during which it did; but I do not think within the last year and a half —

Q. Now, you have stated in answer to my question, and you repeated almost the same idea in answer to Mr. Buchanan, that the capital invested in your pipe line was at some risk in consequence of the ephemeral character of the business. I inferred from your answer to Mr. Buchanan that you doubted whether new capital would be willing to take that risk.—A. I made that reply to his question as to why it does not.

Q. In other words, you feel, do you, that the 25,000,000 of share capital which is in this National Transit Company is constantly in jeopardy, due to the fact that these oil fields may give out before you have realized a sufficient return for your capital?—A. That their duration is indefinite, and that the business is attended with risk to that extent.

Q. You would not think, therefore, that you were greatly injured if anybody should return you that capital and take it off your hands?—A. Well, we are in the business now and expect to remain in it.

Q. But you must not blow hot and cold under the same oath and during this investigation. I would like you to take one side or the other of that question. You have stated several times that this was a

risky business, and that you had not been in it long enough even to determine what rate of depreciation per annum should be called for in order to return your capital, but to Mr. Buchanan you stated this field was open to anybody who had the real money and was willing to put it at risk in competition with you.—A. I did.

Q. Am I to understand from that that you would feel that no great injury was done to you if this property was taken off your hands at cost; provided, always, that you could secure the supply of oil at the same rate that other people did?—A. Well, I can not conceive what possible significance or importance there is to the question.

Q. You must permit me to be the judge of that.—A. The question as to our willingness to sell is one I have no right to answer about, and one I could not answer, even with reference to my own feeling, without a bona fide offer and collaterals back of it.

Q. You would not want collateral if you got the money?—A. No, sir. I think the Standard Oil success is very largely due to their faith in the business, and the fact that they have been willing to risk their money, and more willing than other people.

Q. Let me follow out this first. Take the capital at \$25,000,000, though it is more, I believe in that statement of the National Transit Company. That company has capacity to-day of 60,000 barrels a day, has it not, according to Mr. O'Day's testimony?—A. In all departments, yes, sir.

Q. Practically, leaving out some of the Sundays, that would make 20,000,000 of barrels a year? You admit that capacity, do you not?—A. Yes, sir.

Q. Mr. O'Day stated further that the capacity by increasing the pumping station could be run up to 90,000 per day. Do you agree with that?—A. I should think that would be a very full capacity.

Q. But there is no question about the 60,000 per day?—A. I think not.

Q. Now, on that you get, including the oil from the lower region, 70 cents per barrel, do you not; 55 to New York and 20 from the wells?—A. Yes, sir; but I do not think we pump any oil from the lower field to the sea-board.

Q. We will take the upper field, then. From that you get 65 cents?—A. Yes, sir.

Q. A large proportion of the oil comes from the upper field?—A. Yes, sir.

Q. In addition to that you get your storage on such of it as is stored?—A. Yes, sir.

Q. Now, 65 cents on 20,000,000 barrels is \$13,000,000. If you only got 25 cents a barrel for that business it would amount to \$5,000,000, would it not?—A. You are assuming that all that goes to the sea-board, which it does not.

Q. I am assuming that it all goes to the sea-board.—A. But it does not.

Q. Most of it does, or a very large proportion of it.—A. I do not know just what proportion.

Q. Every year two-thirds of the total product of refined oil is sent abroad over your line?—A. About two-thirds goes abroad, but a great deal of oil is taken to the sea-board in barrels and tank-cars which does not go through the pipe line.

Q. Now, suppose the State of Pennsylvania, exercising its right of eminent domain, should take possession of your pipe line and run it for the benefit of the producers in the oil region, charging you exactly the

same rates for transportation that they charge others, am I to infer that if you got what this property cost you you would not feel greatly injured by it?—A. Well, that is a question that I can not make any answer to.

Q. Would you be willing that your testimony given here to-day should be read before the jury when they took possession of your property and assessed the damages in order to determine from your statement of the hazardous nature of the enterprise what a fair price should be?—A. I think that any jury which undertook the business of assessing that property without reference to those hazards would probably meet with disastrous results.

Q. But the question is whether you would be willing that your testimony given here to-day should be presented to that jury as a fair statement of the facts by which they should judge of the value of the property.—A. I have made no statement here but what I would be willing to repeat.

Q. Have you any reason to suppose that you or anybody would be injured by any change in this business that would enable you to receive your oil through this pipe at exactly the same price which every competitor of yours paid for it?—A. Have I any reason to believe that we would be injured?

Q. By that.—A. The piping business is a business entirely apart from the refiner's business.

Q. I mean as a refiner.—A. Our refineries pay the same price for transportation for piping per barrel as every other refinery does.

Q. But to you as a transporter?—A. To the pipe line.

Q. Now, suppose that the State of Pennsylvania became the transporter and charged you and everybody else 25 cents a barrel for the transportation of oil, would you feel that in your refining capacity you would suffer injury from such a change?—A. We would as refiners be in just the same position as we are to-day, relatively. We pay just the same to-day as other refiners.

Q. But if you could have that oil transported for you as a transporter instead of paying your own pipe-line company 65 cents for 25 cents as refiners you would be 40 cents a barrel better off?—A. No, sir.

Q. Why?—A. Because the basis of price would be reduced just that much. It would be sold to the foreign consumer at just that much less per barrel.

Q. That would be taken off the price?—A. Yes, sir.

Q. But would that injure you as refiners in the least?—A. As refiners I do not think it would.

Q. Therefore, if the State of Pennsylvania relieved you from the burden of maintaining this pipe line and assured you that you should always receive your oil at the same rate as everybody else, your refining business would not in any manner be injured by such a change?—A. Well, I think, I can hardly answer the question.

The WITNESS (to the chairman). I must appeal from the constant reiteration of how the State of Pennsylvania would be affected. I do not see what the gentleman is trying to get at. I have already answered his question two or three times.

The CHAIRMAN. The objection that the witness makes is that he has already answered your question, Mr. Gowen.

Mr. GOWEN. He has not stated how it would affect him.

The CHAIRMAN. I think so; the answer seems to me to be entirely complete. You put it that that would make a change in his condition.

Mr. GOWEN. The question was whether he would be injured by that system.

The WITNESS. Whether we would be injured as refiners. Whether the rate was 45 cents or 20 cents a barrel, if everybody paid it, we would be relatively in the same position.

Q. You would not be injured then?—A. As a refiner, no.

Mr. GOWEN. If you had said that before we would have had no trouble. The WITNESS. That is just what I said long ago.

By Mr. GOWEN:

Q. You have stated that certain things that have been stated here or proved here were false. Mr. Cassatt swore before a master, and his testimony has been given in evidence here, that sometime about 1878 or 1879 when the rate on oil was \$1.55 from the Bradford region, you were getting a rebate of 49 cents, including in that 22½ cents which was paid the American Transfer Company. Was that false, did you say?—A. I have not seen the testimony, and it is a very long time ago.

Q. I ask you the question whether that statement of Mr. Cassatt's was false?—A. I would not say that it is false, but I do not know that it is true. I have no recollection specifically of the matter.

Q. Am I to understand that when you replied to Mr. Buchanan that all statements of that kind were false, that that applied to Mr. Cassatt's statement?—A. I can not answer with reference to that special statement, not having seen the testimony.

Q. That is not the question. Did your allegation that such statements were false, apply to that statement of Mr. Cassatt's?—A. As I say, I can not answer. I do not know about it without reviewing.

Q. You must answer yes or no, whether your statement that all such allegations were false applied to Mr. Cassatt's statement?—A. I covered in my statement to Mr. Buchanan the general statements that rebates amounting to \$100,000,000 or \$250,000,000 had been allowed to the Standard Oil Company, and I stated that they were false. I did not specify Mr. Cassatt's statement or any other statement.

Q. Am I to infer that you deny the correctness in any way of Mr. Cassatt's statement?—A. I do not deny or affirm it.

Q. Mr. Cassatt swore that when the rate was \$1.40 from the lower field that you received a drawback of 51½ cents, which included a 22½ cent drawback paid to the American Transfer Company. Do you admit or deny that?—A. I neither admit nor deny it. I have no knowledge about it.

Q. Mr. Cassatt testified that when the rate to the public of refined oil going eastward was \$1.90 less 44½ cents, making, as he said, \$1.44½, that your rate was 80 cents. Do you deny the correctness of that statement?—A. I do not deny it or affirm it. I do not know anything about it.

Mr. CHOATE. Does Mr. Cassatt state that what you call rates to the public were paid by anybody.

Mr. GOWEN. He simply stated the rates these gentlemen got and then stated what the rate to the public was.

Mr. CHOATE. But did he say that that rate which you call the rate to the public was paid by anybody?

Mr. GOWEN. He stated that some people—Mr. Malcom Lloyd I believe was one—got drawbacks. Therefore the inference would be that others did not.

By Mr. GOWEN:

Q. You stated in answer to Mr. Buchanan, or I understood you to say, that it was not true that you ever received a drawback payment or

allowance—or whatever word was used to designate it—on oil that was shipped by other people?—A. I have no recollection of any such case.

Q. You stated that with great positiveness. If I remember right you stated that that statement was false, did you not?—A. Yes, sir.

Mr. BUCHANAN. I would like to have his answer read in that respect. My recollection is, and I was watching closely, that he said he knew of no such case.

Mr. GOWEN. I may be wrong about it; if you prefer I will strike this all out.

Mr. BUCHANAN. Not at all.

By Mr. GOWEN:

Q. I want to say to you that Mr. Cassatt testified on the occasion to which I have referred, and his testimony upon that point has been read and is upon the minutes of this committee, that they paid the American Transfer Company 22½ cents a barrel on every barrel of oil shipped over the road, no matter by whom it was shipped.—A. That is a very different service. That is a consideration paid them for gathering the oil in the field and bringing it to the road. It has nothing to do with the shipments over the road.

Q. How do you mean?—A. Just that it did not go beyond the question of gathering this oil from the field to the railroad.

Q. Are you speaking from your own knowledge?—A. From a general knowledge of the question, not a specific knowledge of it.

Q. Do you not know that the American Transfer Company charged a regular rate to all persons who transported oil over its lines?—A. Whether they did or not at that time, I do not know. There was a period of active competition in the oil field for oil, and I think that for a very considerable time they sacrificed their rates in the purchases of oil.

Q. Mr. O'Day testified to that, but he testified also that they had a regular rate which they charged everybody?—A. A nominal rate.

Q. But a rate. In addition to that the Pennsylvania Railroad paid, according to Mr. Cassatt, the American Transfer Company a rebate on every barrel of oil?—A. As a compensation for the service of gathering the oil and bringing it to the Pennsylvania Railroad rather than to some other transporting line, the Erie road for instance.

Q. Do you mean that that payment applied only to oil delivered by the American Transfer Company?—A. That is my understanding.

Q. Do you know it as a fact?—A. As well as I can know anything without absolute knowledge of the case.

Q. Who was the treasurer of the American Transfer Company?—A. I think Mr. Jones was the treasurer.

Q. Where is he?—A. In New York.

Q. In what capacity?—A. A clerk in the Standard Oil Company's office.

Q. What is his first name?—A. I do not know his first name.

Q. I think Mr. O'Day testified that Jones was the secretary?—A. I think he was both secretary and treasurer.

Q. Do you know Mr. Girty?—A. Yes, sir.

Q. Was he not the treasurer?—A. I do not know.

Q. Where is he?—A. In New York.

Q. In what capacity?—A. As a clerk in the service of the company.

Q. Do you know what his first name is?—A. I do not.

The WITNESS. There are some two or three points, Mr. Chairman, if you will bear with me, you and the gentlemen of the committee, for a few moments, that I think in justice to the interest I somewhat repre-

sent, I ought to ask you to hear me on. We feel that coming before this committee at this time is quite a serious affair in that there seems to have culminated here a line of attack.

The CHAIRMAN. Pardon me one moment, Mr. Archbold. I do not think it will serve any useful purpose in connection with this investigation that you should go any further in any statement you have to make than to correct any answer you have made here in regard to any fact that is not entirely clear or correct upon the record, or to add any statement with regard to any matter of fact concerning which you have not been interrogated and which you deem of importance to the subject of the investigation. Your ideas of the purposes of the investigation will not assist us in any way in reaching the conclusion which we are charged with striving at; so that you will be careful to restrict yourself within that limit.

The WITNESS. I would not presume to attempt to aid the committee in reference to the manner of its investigation. There are some features of the testimony presented and they are very short, which we feel in justice to our interest ought to be put right. It has been stated here by a witness that these alleged discriminations have forced a large number of refiners into bankruptcy. I deny that.

Mr. GOWEN. The witness must not merely say a thing is not true without saying what knowledge he has on the subject. That opens a vast door for further inquiry.

The WITNESS. If you please, the witnesses on the other side have been allowed to testify in the most general way. They have presented statements here which are as absurd as any statements could possibly be. And if it is the purpose to go into detail we shall, with the permission of the committee, offer to prove the falseness in the main of these statements made to you by these witnesses. I make that statement with reference to them all. The statements made by two different witnesses as to the amount of rebates having aggregated one hundred millions and two hundred and fifty millions is false.

Mr. GOWEN. No such statements have been made by any witnesses.

The WITNESS. I deny the statements that the Standard Oil Company had but little capital to start with and procured its capital from the profits derived from rebates as being false. I deny the statement most positively that the railroad officers, or any of them, participated in rebates or were beneficiaries in any respect through the Standard Oil Company in the matter of rebates. I deny the statement by a certain witness that he was forced to sell out for one principal reason, because of the inferior quality of oil furnished him in a discriminating way, as untrue, or that we were a party to the Pennsylvania or any other railroad, diverting cars from him in order that he might be deprived of proper facilities. I thank you very much, Mr. Chairman and gentlemen of the committee.

Mr. GOWEN. One moment. You are aware, of course, of the fact that being under oath before this committee you are responsible for what you state as a matter of fact here?

The WITNESS. According to my best knowledge and belief I am.

Q. When you swear, as a matter of fact, that the statement made by Mr. Emery that he received bad oil is false, what knowledge have you upon that subject?—A. I have the knowledge of an intimate relation with the business, covering the period under discussion, and having myself carefully discussed this question with Senator Emery at different times.

Q. Did you ever take any of that oil and analyze it or subject it to

any test?—A. We were at all times receiving oil at the same time and of the same character, and subjecting it to all the tests.

Q. How do you know it was the same oil?—A. Because there could not by any possibility be any variation. The oil was pumped through the pipe in large quantities and delivered in part to him and in considerable part to our refiners.

Q. This oil was delivered to him upon the cars of the Pennsylvania Railroad, was it not?—A. It was.

Q. Were you ever at that spot and examined that oil?—A. I never was, personally.

Q. Can you say upon your oath that you ever saw a single barrel of that oil and examined it?—A. Personally, no, sir.

Q. Did you ever receive oil loaded from the same rack?—A. Yes, sir.

Q. At the same time?—A. We were constantly receiving the same oil.

Q. Do you know that?—A. The oil was flowing through the line in a continuous stream, and was constantly being delivered to us at the same time as it was delivered to him.

Q. Oil can not flow through the line in a continuous stream that is delivered in tank-cars?—A. The oil, of course, stopped flowing when it went into tank-cars.

Q. And started again at another car?—A. No; of course not.

Q. What is the length of local lines that conveyed the tank-cars on this branch railroad which connected the Philadelphia and Reading from which Mr. Emery got his oil?—A. It was not there that we delivered the oil to him.

Q. Where was it?—A. At Milton.

Q. He got his oil from you at Milton?—A. Yes, sir.

Q. All of it?—A. Yes, sir.

Q. Do you assert that you had any such knowledge of the facts of that case as will enable you to say that his oil was as good as yours was?—A. I have that knowledge from the most careful investigation of the subject that is possible.

Q. And yet you never went to his refinery?—A. No, sir; and yet I have carefully investigated through employes who did have that personal knowledge.

Q. Now, then, does your loading rack at Milton deliver the oil directly into tank-cars from the main line of pipe leading to the oil region from Milton?—A. From the main line?

Q. Yes.—A. It goes into tanks, of course.

Q. Are there any tanks at Milton to hold any deposit which are afterwards emptied into cars?—A. Undoubtedly; yes, sir.

Q. A tank which holds oil near a loading rack will be filled with deposit if the oil remains there for some length of time, will it not? It may accumulate deposit?—A. It will accumulate deposit.

Q. And sediment?—A. And sediment.

Q. Were you ever in your life present and saw the oil running from one of those tanks into the tank-cars that went to Mr. Emery's?—A. I never did personally; no, sir.

Q. If Mr. Emery's oil was loaded from one of those tanks when the tank was nearly empty would he not receive a much larger proportion of deposit than if he got fresh oil through the pipe direct from the wells?—A. He would at no time have got oil from the pipe line below the sediment line.

Q. How do you know that?—A. Because that is the order and custom of the line.

Q. How do you know that somebody did not violate the order?—A. If he had made the statement as being an exceptional case of sediment that would be a different thing, but he states that inferior oil was persistently supplied to him, knowing that it was inferior oil.

Q. But when you first denied this and gave the explanation you gave as an explanation the fact that it was impossible by reason of the fact that this was a continuous stream of oil flowing through the pipe line and could not have been in this condition; but you withheld from us the facts that you had accumulating tanks at Milton and this oil might have been taken from the tanks when nearly empty.—A. He made no such statement. He stated that oil of an inferior quality was persistently furnished to him.

Q. Because it contained a great percentage of sediment, so much so as to render it of much less value than if it had been fresh oil?—A. Those tanks were used constantly.

Q. Were you ever there to see any of his cars loaded?—A. No, sir.

Q. You were not?—A. No, sir.

Q. How many tanks are there at Milton?—A. I do not know.

Q. You do not even know that?—A. No, sir.

Q. Are there not five or six?—A. I do not know.

Q. You know nothing about it?—A. I do not know how many tanks there are there.

Q. Nor from what tank his oil was loaded?—A. No, sir.

Q. Nor whether his oil was loaded from a tank which was nearly empty or not?—A. No, sir; but I know that it was not below the sediment line.

Q. How do you know that?—A. From statements of employes, and I know the testimony on that point would be very clear and explicit in any investigation.

Q. But you never saw this done?—A. Not personally.

Q. Yet you swear that the statement made was false?—A. That we persistently delivered him inferior oil; yes, sir.

Q. His testimony was that the oil he received by reason of containing a large amount of sediment was of less value than of fresh oil.—A. And the impression he tried to give the committee was that it was done for the purpose of squeezing him out of the business. I say that that is false.

Q. You have stated that his statement that the oil he received was sediment oil is false, and yet you know nothing about it.—A. I know all about that which anybody could know who did not have absolute personal knowledge.

Witness dismissed.

The committee then adjourned until 11 o'clock on Saturday, April 23, 1888.

APRIL 28, 1888.

The committee met at 11 o'clock a. m. Present: The chairman, Mr. Smith, and Mr. Bunnell.

Mr. CHOATE. I believe Mr. Archbold wants to correct a statement he made yesterday.

Mr. ARCHBOLD. I want to correct my statement made yesterday in regard to the capacity of a through trunk 6-inch line of pipe. I think I stated it in my testimony to be between 6,000,000 and 7,000,000 of barrels. I should have said just half that amount, three to three and a half millions.

By the CHAIRMAN :

Q. That is the present capacity with the pumping power you have at the present time ?—A. Yes, sir.

Q. Of course you agree with Mr. O'Day that the amount of oil that might be passed through a 6-inch pipe depends upon the pressure you put upon it, and as you state the capacity you mean with the machinery that you have now in use ?—A. Yes, sir.

By Mr. GOWEN :

Q. That would depend very much upon the grade of the line. A descending grade line would carry much more oil than one that goes over the hills. It would require a greater force of pumping power there ?—A. Yes, sir.

By the CHAIRMAN :

Q. Your statement as to the capacity of your lines relates to them as they at present exist ?—A. Yes, sir.

By Mr. GOWEN :

Q. You have spoken about your business methods being better than others, and your knowledge and experience enables you to get good results, etc. Have you not a large amount of expenditures which other people have not, in consequence of having dismantled and thrown out of existence a great many establishments in order to consolidate the business into fewer ones ?—A. I think the consolidation of the business into large and thoroughly modern establishments has more than counterbalanced, in the aggregate business, any such expense.

Q. Still you do not answer my question. Is it not a fact that you have a great many idle refineries that you have left idle ?—A. No, sir ; we have not a great many idle refineries.

Q. How many have you, or have you dismantled ?—A. There have been in the history of the business, beginning from the start, a great many of the original little concerns dismantled.

Q. Dismantled after purchase by you ?—A. After purchase by us.

Q. How many of those do you suppose ?—A. I can not state.

Q. Fifty ?—A. Possibly, in the aggregate, fifty.

Q. The whole capital of which has been paid, except to the extent that the material would answer as junk ?—A. Such parts of the material as were available for the business were used.

Q. Have you not also in various parts of your business under employ a great many gentlemen at very large salaries, whose salaries were given to them as a compensation or consideration to you of the surrender of their business to you ?—A. I do not think they have.

Q. How many have you ?—A. I can not undertake to say.

Q. Do you mean to say there are none ?—A. There may be possibly isolated cases of that kind of a reserve force. As a rule we are busy men, and try to keep our employes busy.

Q. Are there not now in your employ a great number of people at high salaries about and connected with the establishments which at one time they owned and which you now own ?—A. No, sir ; they are not idle.

Q. I did not say anything about idleness.—A. We have many men, of course, employed in the various establishments at salaries.

Q. Who were previous owners of those establishments ?—A. Some of whom were.

Q. How many of them ; from twenty to fifty in the United States ?—A. I can not answer.

Q. Do not some of those get salaries as high as \$20,000 a year?—A. I do not think so.

Q. Many of them get \$10,000 a year, do they not?—A. I do not think so.

Q. What is the highest salary any of them get?—A. I do not know of a salary as high as \$10,000 under any such circumstances.

Q. You have recently bought Mr. Malcolm Lloyd's refinery, have you not?—A. Yes, sir.

Q. He remains in your service, does he not?—A. Yes, sir.

Q. He gets a salary, does he not?—A. Yes, sir.

Q. As treasurer?—A. He is in the service of our Philadelphia branch of the business.

Q. As treasurer of the organization?—A. I believe that is so.

Q. What salary does he get?—A. I decline to state it.

Q. If you decline to state a thing it can not be because you do not know it?—A. Whether I know it or not, I do not say; but I decline to state it.

Q. When you decline to answer a thing it is not because you do not know. You do know that fact, do you not?—A. I do know what his salary is.

Q. You also know the salary of other people in similar positions, do you not?—A. I do in some cases; I happen to in that.

Q. Do you decline to answer all such questions?—A. I do.

Q. You have also in your organization a large amount of very large salaries, have you not—in the Standard Oil Trust?

Mr. CHOATE. Is that considered material to this investigation?

Mr. GOWEN. The materiality is simply in reply to Mr. Archbold's testimony that their better business methods enable them to do work cheaper than other people. Now if I can show that they have an enormous expense which other people do not have, it is certainly evidence to show that they have not better methods. Here is an item of expense that other people do not have.

The CHAIRMAN. I do not see myself that there is any objection growing out of the natural desire of persons in business not to disclose their private affairs, applicable to the general question whether salaries are paid to the officers of this Standard Oil Trust. When the question of amount is raised the objection returns to the same point where it was when Mr. Lloyd was examined, and upon that occasion, after the committee had met in executive session, the witness was excused from stating the amount. I suppose that ruling will have to be applied here to-day, as in the absence of the majority of the committee I have no power to change it.

Mr. SMITH. I would like to make a few remarks on this point. I suppose Mr. Gowen's idea is to show—or what he proposes to show—that greater salaries can be paid by this combination, and are paid, than if these gentlemen were in a private enterprise of their own. Now, the question arises in my mind if such salaries can be paid by this great combination, or this combination of these several refiners, transporters, etc., more so than if they were privately engaged in the producing and refining of oil, what causes that? What is the cause, and from whom does this amount of money come that produces these large salaries?

The CHAIRMAN. Now, Mr. Smith, ordinarily I would not take up this discussion except in executive session; but since you have made that statement permit me to recall to your memory the fact that the committee in discussing this matter came to the conclusion that while it was pertinent and proper for us to know that salaries were paid, and that wit-

nesses might be interrogated as to whether they received salaries, that it would not assist us in determining what legislation was necessary to know the exact figures. That is the conclusion of the committee with which I can not interfere, and which you will permit me to suggest to you ought not to be discussed except in executive session.

Mr. SMITH. I do not want to know anything about the amount in dollars and cents just to a cent, but the question is, have there been large salaries paid, or are they now paid? That is the question.

The CHAIRMAN. That question as I say is put here, and I in response to the inquiry made here say that the form of the question as I recall it does not seem to me to be objectionable; but the amount is not called for by this question—is not covered by it.

Mr. GOWEN. No, sir. As I understand the ruling of the committee, without the order of the committee I will not ask for the amount. The whole object of this examination is to show that this business is by reason of the manner in which it is conducted subjected to a much greater expense than its competitors are; that they are really paying and have to pay more money and that it is more extravagantly managed. Therefore, they can not produce cheaper than their competitors, and as their competitors are ruined and they are prosperous there must be some other reason for the difference.

Mr. SMITH. What I want to show in this respect is the bearing of these things upon the public business of the country. It is public property and the public has a right to know it.

Mr. GOWEN. Certainly.

(Question repeated.)

The CHAIRMAN. I will put the question as I suppose the rule of the committee requires.

By the CHAIRMAN:

Q. You have a corps of officers connected with your Standard Oil Trust in addition to the officers of the several corporations?—A. No, excepting the trustees themselves.

Q. The trustees themselves?—A. The trustees themselves.

Q. Are they paid salaries?—A. Yes, sir.

Q. And those salaries are in addition to the salaries paid to the officials of the corporations whose stock the trust holds?—A. No, sir; those trustees in so far as they are related, and I believe they are all related with different ones of the corporation, have no salaries in the corporation.

Q. Other people are paid salaries in the corporation, people other than the trustees. Where other people are employed they are paid salaries, are they not?—A. Yes, sir.

Q. So that you have a set of salaries paid to the trustees under the trust agreement, and a set of salaries paid to the officers of the several corporations in all cases except where the trustees are officers?—A. Yes, sir.

By Mr. GOWEN:

Q. How many trustees are there?—A. Nine.

Q. And the chairman of those trustees gets a larger salary than the others?—A. I decline to answer that.

Q. I do not ask the amount; is it larger or smaller than the others?

The CHAIRMAN. I do not see any objection to stating whether those salaries are graded.

The WITNESS. It is larger.

Q. Are you also an officer in some of these subordinate companies?—A. Yes, sir.

Q. Do you receive any salary at all from any other?—A. Yes; I do.

Q. From what companies?—A. I receive a salary from the Acme Oil Company and from the Atlas Company.

Q. Any others?—A. No, sir.

Q. Then you can correct your previous answer that where one of those trustees received a salary he was not paid additional salary?—A. Yes, sir; I must correct that.

Mr. DODD. Let me ask him why he makes the distinction. Is it not a recent change?

The WITNESS. Yes, sir; it is a very recent change in that regard. That I had not in my mind when the question was first asked.

Q. Do you mean a recent change in your system?—A. In my case.

Q. Only in your own case?—A. Yes, sir.

Mr. GOWEN. I think at this moment I will give in evidence this list from the report of the investigation relative to trusts in New York, a list of corporations the stocks of which are wholly or partially held by the trustees of Standard Oil trusts.

List of corporations the stocks of which are wholly or partially held by the trustees of Standard Oil Trust.

	Capital stock.	S. O. Trust ownership.
New York State:		
Acme Oil Company, manufacturers of petroleum products.....	\$300,000	Entire.
Atlas Refining Company, manufacturers of petroleum products.....	200,000	Do.
American Wick Manufacturing Company, manufacturers of lamp wicks.....	25,000	Do.
Bush & Denlow Manufacturing Company, manufacturers of petroleum products.....	300,000	50 per cent.
Chesebrough Manufacturing Company, manufacturers of petroleum.....	500,000	2,061-5,000.
Central Refining Company (limited), manufacturers of petroleum products.....	200,000	1-67, 2 per cent.
Devoe Manufacturing Company, packers, manufacturers of petroleum.....	300,000	Entire.
Empire Refining Company (limited), manufacturers of petroleum products.....	100,000	80 per cent.
Oswego Manufacturing Company, manufacturers of wood cases.....	100,000	Entire.
Pratt Manufacturing Company, manufacturers of petroleum products.....	500,000	Do.
Standard Oil Company of New York, manufacturers of petroleum products.....	5,000,000	Do.
Sone & Fleming Manufacturing Company (limited), manufacturers of petroleum products.....	250,000	Do.
Thompson & Bedford Company (limited), manufacturers of petroleum products.....	250,000	80 per cent.
Vacuum Oil Company, manufacturers of petroleum products.....	25,000	75 per cent.
New Jersey:		
Eagle Oil Company, manufacturers of petroleum products.....	350,000	Entire.
McKirgan Oil Company, jobbers of petroleum products.....	75,000	Do.
Standard Oil Company of New Jersey, manufacturers of petroleum products.....	3,000,000	Do.
Pennsylvania:		
Acme Oil Company, manufacturers of petroleum products.....	300,000	Do.
Atlantic Refining Company, manufacturers of petroleum products.....	400,000	Do.
Galena Oil Works (limited), manufacturers of petroleum products.....	150,000	86½ per cent.
Imperial Refining Company (limited), manufacturers of petroleum products.....	300,000	Entire.
Producers' Consolidated Land and Petroleum Company, producers of crude oil.....	1,000,000	66-132 per cent.
National Transit Company, transporters of crude oil.....	25,458,200	94 per cent.
Standard Oil Company, manufacturers of petroleum products.....	400,000	Entire.
Signal Oil Works (limited), manufacturers of petroleum products.....	100,000	36½ per cent.
Ohio:		
Consolidated Tank-Line Company, jobbers of petroleum products.....	1,000,000	57 per cent.
Inland Oil Company, jobbers of petroleum products.....	50,000	50 per cent.
Standard Oil Company, manufacturers of petroleum products.....	3,500,000	Entire.
Solar Refining Company, manufacturers of petroleum products.....	500,000	Do.

List of corporations, etc.—Continued.

	Capital stock.	S. O. Trust ownership.
Kentucky:		
Standard Oil Company, jobbers of petroleum products.....	\$800,000	Entire.
Maryland:		
Baltimore United Oil Company, manufacturers of petroleum products.....	600,000	5,059-6,000.
West Virginia:		
Camden Consolidated Oil Company, manufacturers of petroleum products.....	200,000	51 per cent.
Minnesota:		
Standard Oil Company, jobbers of petroleum products.....	100,000	Entire.
Missouri:		
Waters Pierce Oil Company, jobbers of petroleum products.....	400,000	50 per cent.
Massachusetts:		
Beacon Oil Company, jobbers of petroleum products.....	100,000	Entire.
Maverick Oil Company, jobbers of petroleum products.....	100,000	Do.
Maine:		
Portland Kerosene Oil Company, jobbers of petroleum products....	200,000	Do.
Iowa:		
Standard Oil Company, jobbers of petroleum products.....	600,000	60 per cent.
Continental Oil Company, jobbers of petroleum products.....	300,000	62½ per cent.

I will also offer here in evidence this statement of an appeal to the executive of Pennsylvania, which was proved by Mr. Campbell, and which contains the contract of the South Improvement Company:

[Compliments of Lewis Emery, jr., Bradford, McKean County, Pa.]

AN APPEAL TO THE EXECUTIVE OF PENNSYLVANIA.

An address to Gov. John F. Hartranft, invoking the aid of the State against the unlawful acts of corporations, presented August 15, 1878.

The 20th section of the first article of the constitution of Pennsylvania provides in its "Declaration of rights":

"The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance."

The third section of the seventeenth article of the constitution provides that—

"All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads and canals; and no undue or unreasonable discrimination shall be made in charges for, or in facilities for, transportation of freight or passengers within the State, or coming from or going to any other State."

And the seventh section provides that—

"No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback, or otherwise, and no railroad or canal company, or any lessee, manager, or employé thereof shall make any preferences in furnishing cars or motive power."

And the twelfth section directs that—

"The general assembly shall enforce by appropriate legislation the provisions of this article."

The third section of the sixteenth article provides that—

"The exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State."

And the thirty-first section of the schedule declares that—

"The general assembly at its first session, or as soon as may be after the adoption of this constitution, shall pass such laws as may be necessary to carry the same into full force and effect."

JOHN F. HARTRANFT, Governor of Pennsylvania:

SIR: The undersigned, members of a committee appointed by the general council of the Petroleum Producers' Union for that purpose, address to you, as the official head of the Commonwealth, a plain statement of facts, to a great extent known to be true from personal knowledge, and all material parts of which are susceptible of proof by competent evidence.

We address you, not only as individuals whose personal interests have been affected, whose property has been rendered comparatively valueless, and whose capital and labor are bound against their consent to increasing the gains of grasping corporations, but as citizens of the great Commonwealth of Pennsylvania, apparently prostrate, and powerless to control one of its greatest products and the immense business that annually flows from it.

The petroleum production of Pennsylvania is confined geographically to the north-western portion of the State, extending from its border upon New York State nearly to Pittsburgh, and is the chief interest in the counties of McKean, Warren, Forest, Crawford, Venango, Clarion, Butler, and Armstrong.

The amount of money invested in well property, constantly to be renewed and kept good, represents at least \$20,000,000, and while the value of the lands upon which the wells are located is not easily determined, it represents many times the value of the well property.

Petroleum should yield at the wells, with its transportation and sale unfettered, \$25,000,000 to \$35,000,000 annually, while as an article of export it ranks third among the products of the nation and as first among its manufactured exports.

For transportation outlets it has the Pennsylvania Railroad to the sea-board at an average distance therefrom of less than 400 miles. The New York Central and Lake Shore Railroads reach Oil City by way of Cleveland, Ohio, 764 miles from the sea-board, and Titusville, by way of Dunkirk, N. Y., 571 miles to the sea-board, and the New York, Lake Erie and Western and Atlantic and Great Western Railways reach Oil City by way of Meadville, 550 miles to the sea-board.

CONDITION OF THE TRADE IN 1871.

At that time the lines of the Pennsylvania Railroad in the oil region were dotted with refineries, located at Tidioute, Henry's Bend, Oleopolis, Oil City, Corry, Titusville, Miller Farm, Rousseville, and other points on the Oil Creek Railroad, at various points on the Philadelphia and Erie Railroad, and on the Allegheny Valley Railroad, these roads being tributaries of and controlled by the Pennsylvania Railroad, while upon its main line extensive refineries were located at Pittsburgh and Philadelphia. The refineries at Cleveland, Ohio, confined themselves in a measure to the Western domestic trade, and those of Portland, Boston, and New York had generally specialties in the trade.

The markets were filled with buyers of crude and refined; information as to stocks, production, and consumption was open and obtainable, and values were regulated by the law of supply and demand.

In its relation to this trade, western Pennsylvania almost exclusively possessing this product, with ample refineries in its midst; with its great State railroad penetrating the producing region and by it having the shortest route to the sea-board; with the Allegheny River as an additional means of transportation to Pittsburgh, the western terminus of the Pennsylvania Railroad, and with Philadelphia, its eastern terminus, as an exporting point, Pennsylvania had, and was entitled to, the control of the refining and transportation of its own product.

CONDITION OF THE TRADE IN 1877-'78.

Now this is all changed! The refineries on the lines of the Pennsylvania Railroad have been demolished, excepting where reached by rival railroads, and this business has been transferred to Cleveland and New York, the refineries remaining in this State having passed into the ownership and control of a foreign organization, as has also the local transportation from the wells, by means of pipe lines to the lines of the railways.

The transportation of every nature is subject to its dictation; it possesses every avenue of information; it affixes its own value to the crude product when purchasing, and the refined products when selling; it establishes its own rates of compensation to be paid the railways, and the laws of commerce which govern values in other products are in this a part of the history of the past. So far as the petroleum trade is concerned an enterprise or investment therein is only a wager as to what step the Standard Oil combination will next take. With the world consuming double the amount of our petroleum that it did in 1871, the \$30,000,000 which should be received from the crude product has dwindled to its half; the \$15,000,000 which should be the profit of Pennsylvania refineries has been transferred to Ohio and New York, and the \$20,000,000 which should have swelled the earnings of the railways have gone, no one dare say where; but the colossal fortunes acquired since 1872 by every member (as far as its members are known) of this now world renowned organization are proofs of the success attendant upon a scheme no less unlawful than gigantic, and which has all the outward and visible signs of inward and spiritual corruption. To-day a

foreign corporation is the absolute master of the production and its value, of transportation by pipe lines, transportation by railroad, and the compensation therefor, of storage and refining, and the profit thereof, and dictates prices through the world, of the first, or among the first of the products of Pennsylvania and of the United States, and this to the impoverishment of thousands of citizens and the destruction of each of these interests within the State. That this has been accomplished through and by means of the co-operation of the Pennsylvania Railroad, its management and influence, is matter of record.

The first attempt to monopolize the trade was initiated by the conveyance, by R. D. Barclay, Thomas A. Scott's private secretary, and S. S. Moon, the legislative agent of the Pennsylvania Railroad, to a party composed principally of Cleveland and New York men, headed by an agent of the New York Central and Erie Railways, of a charter granted by the legislature of Pennsylvania for a different purpose, under which they organized for the seizure of the petroleum trade, retaining the charter title of "the South Improvement Company," the then managers thereof being the managers of the organization now known as the Standard Oil Company.

With the South Improvement Company, not a member of which lived in the oil region or was an owner of oil wells or oil lands, the Pennsylvania Railroad hastened to execute a contract (January 18, 1872) giving it the sole and exclusive control of all petroleum shipments thereon, regardless of ownership, and securing this by the payment by the railroad of a rebate or drawback to the South Improvement Company, of such a sum as would have inevitably driven all others out of the trade; and lest there might be doubt as to the intent to so do, it was expressly stipulated in the fourth article thereof that that was the result aimed at, and the Pennsylvania Railroad therein bound itself, so far as it legally might, to aid in accomplishing it. (See copy of contract annexed hereto.)

The action of the legislature and of Congress, and the uprising of the people against this unparalleled iniquity, destroyed the combination for the time being, the railroads having pledged themselves to never attempt a similar outrage. (See agreement hereto attached, dated March 25, 1872.)

The local transportation of crude petroleum had been gradually changing from movement by barrels to carriage in pipe lines from the wells to tankage located on the lines of railway, the principal of which pipe lines, at this time known as the Pennsylvania Transportation Company (formerly Allegheny Transportation Company), was under special charters of the legislature, and owned and controlled by Messrs. Scott, of the Pennsylvania, and Fisk & Gould, of the Erie Railways. The legislature had been petitioned at various times since 1866 to pass a free pipe law, but the various bills introduced for that purpose could never overcome the opposition of the Pennsylvania Railroad in the legislature. During the excitement attendant upon the rise and fall of the South Improvement Company scheme the effort was renewed, and the legislature enacted a law, restricted to the eight oil producing counties, but the Pennsylvania Railroad influence was strong enough to exclude Allegheny County from the operation of the act, thus shutting out western Pennsylvania from Pittsburgh, the terminus of the Pennsylvania Railroad, the natural outlet of the oil region, and the natural refining point of the United States.

The succeeding efforts to pass a free pipe law, either general in its nature or to permit construction of pipe lines to lines of railway within the State, or to include Allegheny County in the law of 1872, have been defeated invariably by the opposition of the Pennsylvania Railroad, and the law of 1874, known as the Wallace act, was so framed and enacted as to leave it doubtful whether it had not succeeded in withdrawing from the eight counties referred to all the rights conceded to them by the act of 1872, a wrong which no subsequent legislature has been able to redress.

Under the law of 1872 pipe lines owned by citizens in the oil region had been organized and were in operation, giving free access to the railways, but after the passage of the Wallace act (April 29, 1874) the Standard combination, which had never really abandoned the South Improvement scheme, systematically undertook their destruction by forcing them into insolvency and then absorbing them. This required railway co-operation, and various means were employed therein, notably among which is the scheme adopted by the ring and promulgated by the railroads, October 1, 1874. (See circular attached hereto, dated September 9, 1874.) An explanation is necessary to understand why the railroads should unite: first, to carry oil received by them through pipe lines that had combined to maintain a given rate for pipeage, 22 cents per barrel cheaper than on oil received from pipe lines not so combining; and second, to further weaken the refineries remaining in western Pennsylvania, by depriving them of their geographical advantage of proximity to the crude product, to the coal used as fuel, and to the exporting ports, by free transportation of crude petroleum to the ring refineries in other States. Various pipe lines had already been forced out of existence, had been bought up and united under the name of the United Pipe Lines, which was owned one-third by the Standard Oil Company, one-third by the Lake Shore and New York Central Railroads, and one-third by individuals who were

members of and directors in the Standard Oil Company. The Pennsylvania Railroad had as its particular feeder a similar organization, known as the Empire Pipe Line. This explains the first point referred to above. The second, so far as the Pennsylvania Railroad is concerned, is inexplicable upon any ordinary hypothesis or under any known theory in railroad politics. The scheme was a success; pipe lines one after another succumbed, and refiner after refiner was bankrupted and his works absorbed.

This effected, the monopoly, backed by the New York railroads, in one of which it exercised unlimited power, felt strong enough to demand of the railroads that it should be given the future sole conduct of the trade under the old South Improvement plan. Upon this the Pennsylvania Railroad apparently awoke to its danger, resisted the demand, and in July, 1877, President Scott announced as the policy of the Pennsylvania Railroad open and free trade to all shippers of petroleum. It was then conducting its oil traffic through its ally, the Empire Transportation Company, which possessed a system of pipe lines (before referred to) extending over the oil region, controlling a large portion of the production, with ample tankage, with a large rolling-stock upon the Pennsylvania Railroad, and owning or controlling a refining capacity nearly equal to one-half the consumption of the world. In the following month (August, 1877), immediately after the riots at Pittsburgh, which were in their extent the natural outgrowth of railroad freight discrimination against that city, the monopolists succeeded in convincing the officials of the Pennsylvania Railroad that it was to their or its interest to force the Empire Company, its cars, its pipe lines, its tankage, and its refineries into their hands. The people of western Pennsylvania protested in a communication to the president and directors of the Pennsylvania Railroad in September, before the extent of the proposed iniquity had become fully known to the public, which communication seems never to have reached the board of directors. (Copy hereto attached, dated September 11, 1877.) The outrage was finally consummated October 17, 1877, and the Pennsylvania Railroad was left without the control of a foot of pipe line to gather, a tank to receive, or a still to refine a barrel of petroleum, and without the ability to secure the transportation of one, except at the will of men who live and whose interests lie in Ohio and New York.

Into those hands had now passed the last refineries of Pennsylvania, the last means of transportation from the wells to the railroads, and the last means of carriage to the markets of this country and of the world. The South Improvement scheme (less its chartered organization as in 1872) was at last an accomplished fact, and in the successful designing, prosecution, consummation, and operation of which it is impossible not to believe that railroad officials were personally interested.

CONGRESSIONAL LEGISLATION.

As the conspiracy was evidently gaining strength, the people of Pennsylvania united in an effort to induce Congress to again interfere, as in 1872, and in 1876 it directed an investigation, which was conducted in a dilatory manner by a committee; a prominent member of the Standard Oil Company, and not a member of Congress, presiding behind the seat of the chairman. Vice-President Cassatt, of the Pennsylvania Railroad, was the only prominent railway official who appeared in obedience to the subpoenas of the Speaker of the House of Representatives, and he refused to give the committee any information as to the matter under investigation, and the counsel of the Pennsylvania Railroad, ex-Senator Scott, appeared before the committee in justification of his so doing. The financial officer of the Standard Oil Company appeared before the committee, accompanied by a member of Congress, also a member of that company, and promptly refused to give the committee any information as to the organization, or the names of its members, or its relations with the railroads. The influence and power of the combination was apparent. The committee never reported, never complained of the contempt of its witnesses, and all the evidence and record of its proceedings effectively disappeared. In 1877-'78 a bill was introduced by Representative Watson, of western Pennsylvania, seeking to prevent discrimination in interstate commerce, which has been reported by a committee, but which can hardly overcome the covert opposition which it meets.

RECENT STATE LEGISLATION.

All efforts to obtain a free pipe law in this State having through a series of years proved unavailing, although New York in its efforts to control the trade in Pennsylvania petroleum had enacted such a law, a bill was prepared enforcing in this State the third and seventh sections of the seventeenth article of its constitution. This bill, known as the anti-discrimination act, provided that shippers of property by car-load from any point on a railroad within the State to any other point within the State should be charged equal rates and given equal facilities. Copies of the proposed law were sent to the prominent railroad officials in the State, but its provisions were so fair and protective to every citizen of the State and to every legitimate railroad interest that neither before the judiciary committee of the senate, which reported it favorably by an unanimous vote, nor in the senate, which passed it with but one dissenting voice, nor before the judiciary committee of the house, which

reported it unanimously, did any railroad stockholder, official, or legislative agent appear to offer an objection to its becoming a law. Yet it was killed in the house by the familiar means employed by legislative agents in disposing of measures objectionable but not debatable. Had the bill become a law it would have rebuilt the refineries of the State, with Philadelphia (whose petroleum trade under the monopoly has gradually dwindled to a fraction of its former magnitude) as the exporting point, with the Pennsylvania Railroad as the transporter thereto, and the people of western Pennsylvania might have arisen from a community of miners, working for the benefit and under the rule of a foreign corporation, to their former condition as citizens of a prosperous mining and manufacturing section of the State.

RESULTS AND EFFECTS OF THE SUCCESS OF THE CONSPIRACY.

Upon or with the New York railroads no appeal or representation of the people of this section would have any weight or influence. Their managers reside in Cleveland and New York, and are subject to the daily manipulations of the monopoly managers, while in our own State, to all efforts for emancipation or toward the restoration of trade to its natural channels, the Pennsylvania Railroad and its power is as a Chinese wall. Its president and vice-president admit the preferences in rates given to the monopoly, and boldly announce their intent to continue in so doing; they claim the legal right to so do, and challenge resistance; they obstruct all efforts of producers, shippers, and refiners by delaying or restricting facilities; by threatening other railroads with severance of connections and deprivation of general traffic if they transport petroleum for parties outside the monopoly; they refer applicants for rates and facilities over the Pennsylvania Railroad to the Standard Oil Company, and offering their personal services as negotiators for such rates and facilities, assure all that there is no hope of success in the trade unless by a coalition with the Standard.

We have thus far given not more than an outlined sketch of this enormous monopoly, its plan, its growth, and its results. We have not burdened your excellency with details of individual oppression and outrage, but we should fail to discharge our duties to ourselves and as citizens if we neglect to recite some of the means by which the most deplorable results are produced to our State and section. Wrong is constantly perpetuated and right driven from us. True it is that in many things the monopoly has been unwittingly aided in its schemes by unwary concessions as to the management of its business by producers of petroleum themselves, but they had a right, as men pursuing an honest calling, to believe that they were dealing with honest men, and not with a gang of public plunderers, leagued together by no better tie than the sordid desire of gain, to be acquired by methods of corruption and lawlessness.

By the theory of the law, corporations derive their powers from the people of the commonwealth in general assembly convened; they have no powers not delegated to them by the people; they take nothing by implication; they are public servants, invested for the public benefit with extraordinary privileges, and their charters may be taken from them when they cease to properly perform the duties of their creation. The railroad and pipe-line companies are common carriers of freight for all persons, are bound to receive it when offered at convenient and usual places, and to transport it for all, for reasonable compensation, without unreasonable discrimination in favor of any. These are but simple statements of well-established legal principles, never doubted in any court, but affirmed by every tribunal that has ever considered them. Yet the people who granted these special privileges are now upon the defensive, their rights denied by the incorporations, and they are challenged to enter the courts to establish them, while in the meantime they are inoperative, to the irreparable injury of their business. They have yielded to the railways that they have created a part of their sovereignty, and given them the right to take private property for public use, but restricting such taking strictly to such use. Yet where the narrow strip of land used as a railway road-bed runs through valuable oil lands, this combination is strong enough to demand from the railways its transfer to them, that they may and do thereon sink their own oil wells, and thereby drain the oil from the adjoining lands whose owners gave the strip for public use by a railroad.

The owners of lands along the line of the Allegheny Valley Railroad, producing petroleum from those lands, with their own pipe line running to their own shipping racks by the side tracks of that railroad, are unable to obtain cars in which to load their product for transportation, at any rate of freight, while their tanks overflow. Shippers of petroleum are refused cars, or are promised them, only to find the promises broken, and their contracts rendered impossible of fulfillment, while the monopoly demands and is given all the cars belonging to the railroads, it permitting its own private cars to meantime stand idle, so that the railroad may assert its inability to accommodate all.

Owners of tanks connected with the monopoly pipe lines, with ample storage therein for their own product, are refused transportation from their own wells upon the ground that "their tanks are full," a barefaced and daily demonstrated false-

hood. Other producers of petroleum are refused transportation by the pipe line, on the plea of want of capacity to carry, and at the same time are informed that their oil will be carried if they will sell it to the ring, "immediate shipment."

If the applicant's tanks are overflowing, or if he needs money and complies with their terms, he is offered a price from two and a half to twenty-five cents below the market value. If he accepts and sells a fixed amount of his oil, the pipe line removes all but five or ten barrels, delays for days and weeks to take the remainder, and refuses to pay for any until all is taken. This is known as the "immediate shipment swindle."

By their use of the petroleum of others stored in their tanks and lines; by the over-issue of pipe-line certificates; by refusal to perform their public duties; by open defiance of the law and impudent evasions of its provisions, the pipe line and railroad companies leave to the people, whose creatures they are, but two remedies—an appeal for protection, first, to the law of the land, next, to the higher law of nature.

These corporations have made themselves the interested tools of a monopoly that has become the buyer, the carrier, the manufacturer, and the seller of this product of immense value. It needs no argument or illustration to convince that in such a position this foreign corporation is in direct antagonism to the producer, the laborer, and the consumer.

The South Improvement conspiracy embraced in its scheme the ownership of the oil-producing territory, wells, and machinery. If the present course of its successor can not be stayed, it is merely a question of time when the ownership of the oil production will fall into its hands, through the impoverishment of thousands of our citizens and their inability to contend longer.

That monopolies are dangerous to free institutions is a political maxim so old as to have lost its force by irrelevant repetition, but if anything were needed to awaken the public sense to its truth, the immediate effect of this giant combination is before us. Throughout the oil region, as wherever it does business, it now has its own acid works, glue factories, hardware stores, and barrel works. We have seen that it is master of the railroads, and owns and controls all the refineries, all the pipe lines. All these enumerated industries controlled by them employ large numbers of laborers, dependent for the support of themselves and their families upon the daily labor given or withheld by this powerful conspirator. At the flash of a telegraphic message from Cleveland, Ohio, hundreds of men have been thrown out of employment on a few hours' notice, and kept for weeks in a state of semi-starvation and justifiable discontent, deceived meanwhile with delusive promises of work, until the autocrat of a foreign corporation, maintained and upheld by the chief among Pennsylvania corporations, gives leave from within the borders of a foreign State for the Pennsylvania laborer to earn his bread.

Along the valley of Oil Creek and the Allegheny Valley, where a few years since the smoke of busy refineries and their attendant industries darkened the air, piles of rusted iron and heaps of demolished brick work mark the results of the conspiracy: where a few years since busy men crowded to and fro in the pursuit of lawful trade in a great staple, there is now silence and emptiness. The producer, once surrounded with competitive buyers of his product, now goes with crowds of his fellow victims to wait his turn for leave to sell it at a dictated price to a single agent of a single purchaser.

To permit to stand unattacked the foul principles of such an organization, to permit them to be fastened, as lawful or right, upon the policy of the commonwealth or the nation, is to lay the foundation for the exile of capital, endless injury to the public interests, endless oppression of the laborer, riots, tumults, and the decay of the state.

So far as this public wrong is within the scope of executive interference, we ask that immediate steps be taken to enforce, by legislative enactment, the wise provisions of our State constitution, and, by such legal processes as are necessary, compel obedience to law and the performance by chartered companies of their public duties.

B. B. CAMPBELL, of Pittsburgh.
E. W. CODINGTON, of Bradford, McKean County.
LEWIS EMERY, Jr., of Bradford, McKean County.
GEO. H. GRAHAM, of Petrolia, Butler County.
J. A. VERA, of Saint Petersburg, Clarion County.
H. O. ROBBINS, of Turkey City, Clarion County.
L. H. SMITH, Petrolia.
R. B. BROWN, Clarion.
D. S. CRISWELL, Oil City.
A. J. SALISBURY, Karns City.
A. N. PERRIN, Tinsville, Crawford County.
W. B. BENEDICT, Enterprise, Warren County.
H. W. BUMPUS, Monroe, Clarion County.
SAM Q. BROWN, Pleasantville, Venango County.

COMMONWEALTH OF PENNSYLVANIA, *County of Crawford, ss:*

Personally appeared before me, a notary public for Pennsylvania, at Titusville, in said county, B. B. Campbell, E. W. Codrington, Lewis Emery, jr., George H. Graham, J. A. Vera, H. O. Robbins, L. H. Smith, R. B. Brown, D. S. Criswell, A. J. Salisbury, A. N. Ferrin, W. B. Benedict, H. W. Bumpus, and Sam Q. Brown, who, being duly sworn, depose and say that the statements contained in the foregoing address are true when within their own knowledge, and when derived from information by others they believe them to be true.

Subscribed and sworn before me this 13th day of August, 1878.

[SEAL.]

SAMUEL GRUMBINE,
Notary Public.

Contract between the South Improvement Company and the Pennsylvania Railroad Company, dated January 18, 1872.

Agreement made and entered into this eighteenth day of January, in the year eighteen hundred and seventy-two, by and between the South Improvement Company, a corporation organized and existing under the laws of the State of Pennsylvania, party hereto of the first part, and the Pennsylvania Railroad Company, on its own behalf, and on behalf of all other railroad companies whose roads are controlled, owned, or leased by it, or with which it has sufficient running arrangements, which other roads are herein described as the connections of the said Pennsylvania Railroad Company, party hereto of the second part, witnesseth:

Whereas the party hereto of the first part has been organized for the purpose, among other things, of increasing, facilitating, and developing the trade in and the conveyance and transportation of petroleum and its products, and for that purpose proposes, among other things, to expend large sums of money in the purchase, erection, and construction of, and maintaining and conducting works for storage, distillation and refining, warehousing and transportation, and in various other ways, upon the inducement, among other things, of this contract;

And whereas the magnitude and extent of the business and operations proposed to be carried on by the party hereto of the first part will greatly promote the interest of the party hereto of the second part, and make it desirable for it, by fixing certain rates of freight, drawbacks, and rebates, and by the other provisions of this agreement, to encourage the outlay proposed by the party hereto of the first part, and to facilitate and increase the transportation to be received from it.

And whereas it has been agreed by and between the party hereto of the second part, for itself and its connections, the Erie Railroad Company, for itself and its connections, and the New York Central Railroad Company, for itself and connections, that the business of transporting by railroad crude petroleum and its products toward the Atlantic coast, from the points of production and refining, on their lines of road, shall be allotted by the party hereto of the first part to the said three companies, in the proportion of 45 per cent. of the whole to the Pennsylvania Railroad Company, for itself and its connections, including the Philadelphia and Erie Railway, the Northern Central Railway, the Allegheny Valley Railroad, Camden and Amboy Railway, the Pennsylvania Company, and all other railroads which are or may be controlled, owned, and leased by it, or with which it has or may have sufficient running arrangements; 27½ per cent. of the whole to the Erie Railway Company, for itself and its connections; and 27½ per cent. of the whole to the New York Central Railroad Company, for itself and its connections, and that the transportation beyond Cleveland and Pittsburgh over the railroads of the said companies and their connections, in other directions than toward the Atlantic coast, west from said points of production and refining, shall be allotted by the party hereto of the first part, in the proportion of one-third thereof to the party hereto of the second part, for itself and its western connections, and the remainder to other railroads:

Now, therefore, this agreement witnesseth, that the parties hereto, for themselves and their successors, in consideration of the promises, of the mutual execution hereof, and of the mutual advantages hereby conferred, have covenanted and agreed, and hereby do covenant and agree each with the other, as follows:

ARTICLE FIRST.

The party hereto of the first part covenants and agrees:

1. To furnish to the party hereto of the second part, for transportation, such a proportion of the crude petroleum and its products, owned or controlled by the party hereto of the first part, as shall give to the party hereto of the second part 45 per cent. of all the crude petroleum and its products sent from the points of production and refining toward the Atlantic coast by the said Pennsylvania, the Erie, and the New York Central Railroads and their connections, and 33½ per cent. of that which is sent west of Pittsburgh and Cleveland by those railroads and their connections.

2. To provide suitable tankage at the points where petroleum is produced, on the railroads of the party hereto of the second part and its connections, in which to receive crude petroleum preparatory to shipment, with the necessary pipes, pumps, racks, and other appliances for its convenient transfer in bulk into railroad cars.

3. To deliver to the railroads of the party hereto of the second part, and its connections, at the places of shipment, and to receive from them, at the places of destination, all crude petroleum and its products transported over their roads for the party of the first part.

4. To provide at the places of destination on the sea-board necessary and suitable yards, wharves, warehouses, sheds, tanks, pipes, pumps, and motive power for the reception of petroleum and its products and loading vessels therewith.

5. To provide, maintain, and operate the works necessary to refine crude petroleum upon the largest scale practicable, and with such skill, and on such a system of organization and division of labor, as will secure both efficiency and economy; and for that purpose and for the purpose of developing and increasing the petroleum trade of the country, to provide and maintain all suitable and necessary means and facilities.

6. To keep records of the transportation over the railroads of the party hereto of the second part, and its connections, and so far as it can obtain the same over the Erie and the New York Central Railroads and their connections, of all petroleum and its products, showing the number of barrels of 45 gallons each in bulk, and the number of barrels of 47 gallons in barrels, carried by each road, with the points of receiving and delivery, and the amount of freight received by each road for such transportation, which records shall at all reasonable times be open to the inspection of the duly-constituted representatives of the party hereto of the second part.

Monthly abstracts of all such records shall be regularly sent to the party of the second part.

7. To pay the party of the second part weekly for all transportation over its roads and its connections, of petroleum and its products, such gross rates and half rates of freight as are hereinafter specified, less the rebates and drawbacks hereinafter provided to be retained by the party hereto of the first part for its own use.

ARTICLE SECOND.

The party hereto of the second part covenants and agrees:

1. That the party hereto of the second part will pay and allow to the party hereto of the first part, for its own use, in all petroleum and its products, transported over the railroads of the party hereto of the second part and its connections, for the party hereto of the first part, rebates, and on all transported for others, drawbacks, at the rates hereinafter provided, except in the case specified in Article Third.

2. To deliver to the party hereto of the first part, all petroleum and its products in packages, transportation over the railroads of the party hereto of the second part, and its connections, by whomsoever shipped, and consigned to the party of the first part, at the warehouses of the party of the first part, at the sea-board and inland, at the depots of the party of the second part, at the places of destination, and to deliver all petroleum and its products, in bulk, owned by or consigned to the said party of the first part, at any point required on the line of the railroads of the party of the second part and its connections.

3. To transport and deliver petroleum and its products over the railroads of the party of the second part, and its connections, at gross rates, which shall at no time exceed the following, without the consent of both parties hereto:

From any point on the Oil Creek and Allegheny River Railroad to Oil City, Union, Corry, or Irvineton, which are herein designated as *common points*, on each barrel of 45 gallons in bulk and on each barrel of 47 gallons in barrels, 30 cents.

ON CRUDE PETROLEUM.

From any common point (for each barrel of 45 gallons) to—

Cleveland.....	\$0.80
Pittsburgh.....	.80
New York.....	2.56
Philadelphia.....	2.41
Baltimore.....	2.41
Boston.....	2.71

All other points, except those on the Oil Creek and Allegheny River Railway, to the places of destination last named, the same rates as from the *common points*.

STANDARD OIL TRUST.

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ON REFINED OIL, BENZINE, AND OTHER PRODUCTS OF THE MANUFACTURE OF PETROLEUM.

From Pittsburgh (for each barrel) to—

New York.....	\$2.00
Philadelphia.....	1.85
Baltimore.....	1.85

From Cleveland (for each barrel) to—

Boston.....	2.15
New York.....	2.00
Philadelphia.....	1.85
Baltimore.....	1.85

From any common point (for each barrel) to—

New York.....	2.92
Philadelphia.....	2.77
Baltimore.....	2.77
Boston.....	3.07

From and to all points intermediate between the points aforesaid such reasonable rates as the party of the second part shall from time to time establish on both crude and refined.

From Pittsburgh, Cleveland, and other points, to places west of Pittsburgh and Cleveland such reasonable rates as the party of the second part may deem it expedient from time to time to establish.

4. To pay and allow to the party hereto of the first part, on all petroleum and its products, transportation for it over the railroads of the party of the second part and its connections, the following rebates, and on all transported for other parties drawbacks of like amounts as the rebates from the gross rates, the same to be deducted and retained by the party hereto of the first part for its own use from the amounts of freights payable to the party of the second part.

ON THE TRANSPORTATION OF CRUDE PETROLEUM.

	Rebate per barrel.
From the gross rate from any common point to—	
Cleveland.....	\$0.40
Pittsburgh.....	.40
New York.....	1.06
Philadelphia.....	1.06
Baltimore.....	1.06
Boston.....	1.06

From the gross rate from all other points and the six places of destination last named rebates the same as on the rates from the common points.

ON THE TRANSPORTATION OF REFINED OIL, BENZINE, AND OTHER PRODUCTS OF THE MANUFACTURE OF PETROLEUM.

	Rebate per barrel.
From the gross rates from Pittsburgh to—	
New York.....	\$.50
Philadelphia.....	.50
Baltimore.....	.50
From the gross rates from Cleveland to—	
Boston.....	.50
New York.....	.50
Philadelphia.....	.50
Baltimore.....	.50
From the gross rates from any common point to—	
New York.....	1.32
Philadelphia.....	1.32
Baltimore.....	1.32
Boston.....	1.32

From the gross rates to and from all points intermediate between the above points a rebate or drawback of one-third of the gross rate shall be paid.

From the gross rates from Pittsburgh, Cleveland, and other points to places west of the meridians of Pittsburgh and Cleveland a rebate or drawback of one-third of the gross rates shall be paid.

5. To charge to all other parties (excepting such as are referred to in article 3), for the transportation of petroleum and its products, rates which shall not be less than the gross rates above specified, and should at any time any less rate be charged, directly or indirectly, either by way of rebate, commission, allowances, or upon any pretext whatsoever, the same reduction per barrel shall be made to the party hereto of the first part, from the net rates provided for them, on all transportation for them during the period for which such reduction shall be made to others.

6. To permit the party hereto of the first part, if, in its judgment, the currents of trade should so require, temporarily to increase or diminish the proportion, as herein provided, to the party hereto of the second part, for itself and its connections, as the whole business of transporting petroleum and its products, as between the party hereto of the second part, the Erie Railway Company and the New York Central Railroad Company. The party of the second part in such case to receive from the party hereto of the first part, in full payment or indemnity for the excess or deficiency, one-half the net schedule rates on such excess or deficiency; the other half to be paid pro rata to the said other companies whose apportioned quantity of transportation shall thus be varied; but such diversion of business shall not, at any time, exceed one week, nor be repeated without an interval of at least sixty days, unless with the consent of the party hereto of the second part. Also, that whenever, from time to time, as aforesaid, a temporary diversion of a part of the apportioned transportation of the party of the second part, to the other railroads aforesaid, or to either of them, shall become necessary, cars of the party of the second part may be loaded by the party of the first part and sent away over such other railroads, or either of them, but the cars so sent away shall be returned without unnecessary delay, and in as good order as when taken, to the railroads of the party of the second part, and mileage at the usual rates paid for their use while absent.

7. To furnish with as much regularity as possible, at all times, good and sufficient cars, and other means suitable and necessary for the safe and prompt transportation of all crude petroleum and its products, either bulk or in barrels, which the party hereto of the first part shall desire to send from one point to another (and which shall be supplied with as much regularity as possible), on or over the railroads of the party of the second part and its connections.

8. To make manifests or way-bills of all petroleum or its products transported over any portion of the railroads of the party of the second part or its connections, which manifests shall state the name of the consignor, the place of shipment, the kind and actual quantity of the article shipped, the name of the consignee, and the place of destination, with the rate and gross amount of freight and charges, and to send daily to the principal office of the party of the first part duplicates of all such manifests or way-bills.

ARTICLE THIRD.

And it is hereby further convenated and agreed by and between the parties hereto that the rebates hereinbefore provided for the party hereto of the first part may be made to any other party who shall furnish an equal amount of transportation, and who shall possess and use works, means, and facilities for carrying on and promoting the petroleum trade equal to those possessed and used by the party hereto of the first part.

ARTICLE FOURTH.

And it is hereby further convenated and agreed by and between the parties hereto that the party hereto of the second part shall at all times co-operate, as far as it legally may, with the party hereto of the first part, to maintain the business of the party hereto of the first part against loss or injury by competition, to the end that the party hereto of the first part may keep up a remunerative, and so a full and regular business, and to that end shall lower or raise the gross rates of transportation over its railroads and connections, as far as it legally may, for such times and to such extent as may be necessary to overcome such competition. The rebates and drawbacks to the party of the first part to be varied *pari passu* with the gross rates.

ARTICLE FIFTH.

It is hereby mutually agreed by and between the parties hereto that for the purpose of meeting such exigencies as may from time to time require change of the rates of transportation herein provided, each party, on ten days' written notice from the other, shall appoint a person on behalf of such party, and the two persons thus appointed shall have power to change and adjust the rates, which shall go into effect on being approved by the said parties hereto.

ARTICLE SIXTH.

It is further mutually agreed by and between the parties hereto that the gross rates of freight to the party hereto of the first part shall at all times be kept as near to the net rate as is consistent with the interests of the party hereto of the first part, and that whenever, in the judgment of the party hereto of the first part, it is expedient to lower the rebate below the rate above specified, it may do so, and from time to time raise the same again; not, however, above the rate hereinbefore specified. The party hereto of the first part from time to time shall notify the party of the second part in writing of the change required, whereupon the party hereto of the second part shall forthwith make a corresponding change of such gross rates.

ARTICLE SEVENTH.

It is further mutually agreed by and between the parties hereto that this agreement shall continue and remain in force for the period of not less than five years, and shall not then nor thereafter terminate until one of the parties shall have given twelve months' written notice to terminate it.

ARTICLE EIGHTH.

It is further mutually agreed by and between the parties hereto that if any doubt, question, difference, cause, or suit shall at any time or times hereafter arise or happen between the said parties to these presents touching the construction of these presents, or any clause, matter, or thing herein contained, or any other matters, cause, or thing whatsoever, in anywise relating to or concerning this agreement, and such doubt, question, difference, or dispute shall not be fully settled by the parties to these presents within one calendar month after the same shall arise, then, and in every such case, upon the request in writing of either of the said parties hereto, specifying such doubt, question, difference, or dispute, it shall be committed and referred to the hearing and arbitration of three disinterested persons; one of them to be chosen by the party of the first part, another of them to be chosen by the party of the second part, and each party, on ten days' notice in writing from the other, shall make such choice and appoint a disinterested person in behalf of such party, but if either party on such notice shall, within such ten days, fail to make an appointment, the person appointed by the other party shall choose the second disinterested person, and the third disinterested person shall be chosen within one calendar month next after such request, and the award, order, or determination of the said three persons, to be chosen as aforesaid, or any two of them, shall be binding and conclusive on the parties hereto, and shall be performed and kept by them without any further suit or trouble whatsoever; provided such award, order, or determination be made in writing, under the hands of the said three persons, or of any two of them, within the space of sixty days after all the persons shall be so selected as aforesaid. And for the further and better enforcing the performance of the award so to be made as aforesaid, the reference or submission for or in respect of the same may, at the option of any of the parties to these presents, from time to time be made as a matter of course a rule of court in any court of record.

In witness whereof the said South Improvement Company and Pennsylvania Railroad Company have caused their respective corporate seals to be hereto affixed, and these presents to be subscribed by their respective presidents the day and year first above written.

[SEAL.]

SOUTH IMPROVEMENT COMPANY,
By P. H. WATSON,
President.

[SEAL.]

PENNSYLVANIA RAILROAD COMPANY,
By J. EDGAR THOMPSON,
President.

Attest: JOS. LESLEY, Secretary.

Agreement between railroads and the petroleum trade. Executed the 25th of March, 1872.

That all arrangements for the transportation of oil after this date shall be upon a basis of perfect equality to all shippers, producers, and refiners, and that no rebates, drawbacks, or other arrangements of any character shall be made or allowed that will give any party the slightest difference in rates or discrimination of any character whatever.

That the present rates from Oil City, Union, Corry, Irvineton, Pittsburgh, Cleveland, and other competing points shall be and remain in full force at following rates:

ON REFINED OIL, BENZINE, ETC.

Per barrel

From Oil City, Union, Corry, and Irvineton to—

Boston.....	\$1.65
New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35

From Cleveland to—

Boston.....	1.65
New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35

From Pittsburgh to—

New York.....	1.50
Philadelphia.....	1.35
Baltimore.....	1.35

ON CRUDE OIL.

From Oil City, Union, Corry, and Irvineton to—

Boston.....	1.50
New York.....	1.35
Philadelphia.....	1.20
Baltimore.....	1.20
Cleveland.....	.50
Pittsburgh.....	.50

And said rates shall not be liable to any change, either for increase or decrease, without first giving to William Hasson, president of the Producers' Union at Oil City, at least ninety days' notice in writing of such contemplated change.

In the distribution of cars for shipments, it shall be done without discrimination.

On the basis as hereinbefore stated, the parties respectively agree to carry out the arrangements in good faith and work for the mutual interests of each other.

In witness whereof the parties have hereunto affixed their signatures this 25th day of March, A. D. 1872.

For the Lake Shore and Michigan Southern Railroad Company:

H. F. CLARK, *President.*

For the Erie Railroad Company:

O. H. P. ARCHER, *Vice-President.*

For the New York Central and Hudson River Railroad Company:

WM. H. VANDERBILT, *Vice-President.*

For the Atlantic and Great Western Railroad Company:

GEORGE B. MCCLELLAN, *President.*

For the Pennsylvania Railroad Company:

THOMAS A. SCOTT, *Vice-President.*

On behalf of the producers and refiners:

G. SHAMBURG,
E. G. PATTERSON,
WILLIAM HASSON,
HENRY BYROM,
WILLIAM PARKER,
JOHN J. FISHER,

Oil City Producers and Refiners.

J. J. VANDERGRIFF,
A. P. BENNETT,
WILLIAM M. IRISH,
WILLIAM T. SCHEIDE,

Oil City Producers and Refiners.

HENRY N. ROGERS,

F. C. FLEMING,

JOSIAH LOMBARD, Jr.,

New York Refiners.

B. VAUGHAN, *Boston Refiners.*

[The New York Central and Hudson River Railway Company; general freight agent's office, Grand Central Depot.]

NEW YORK, September 9, 1874.

DEAR SIR: Commencing October 1, 1874, the following rates on refined and crude oil shall govern all lines:

The rates on refined oil from all refineries at Cleveland, Titusville, and elsewhere in and adjacent to the oil region shall be as follows:

	Per barrel.
To Boston.....	\$2. 10
Philadelphia.....	1. 85
Baltimore.....	1. 85
New York.....	2. 00

Net rate on Albany 15 per cent. less, from which shall be refunded the amount paid for the transportation of crude oil by rail from the mouth of the pipes to the said refineries, upon the basis of 14 barrels of crude oil to the refineries for every 10 barrels of refined oil forwarded by rail from them (the refineries) to the Eastern points named.

Settlements of this drawback to be made on the refined oil forwarded during each month.

No rebate on these rates will be paid on oil reaching refineries direct by pipes.

On crude oil the rates from all initial points of rail shipments in the oil region shall be as follows:

To Boston, \$1.75 per barrel.

To New York, \$1.50 per barrel (net rate on Albany 15 per cent. less).

To Philadelphia, \$1.50 per barrel.

To Baltimore, \$1.50.

From which shall be refunded 22 cents per barrel only on oil coming from pipes which maintain the agreed rates of pipeage.

A barrel shall in all cases be computed at 45 gallons.

You will observe that under this system the rate is even and fair to all parties, preventing one locality taking advantage of its neighbor by reason of some alleged or real facility it may possess.

Oil refiners and shippers have asked the roads from time to time to make all rates even, and they would be satisfied. This scheme does it, and we trust will work satisfactorily to all.

Respectfully, yours,

J. H. RUTTER,
General Freight Agent.

The formal mutual agreement prescribed by President Scott, as between his road, the Empire Transportation Company, the Empire lines, and the petroleum trade, was agreed upon and reduced to writing July 20, 1877, but not executed. The riots at Pittsburgh commenced July 22, and disorder followed throughout the State for nearly a month. August 25 the Pennsylvania Railroad gave in its adhesion to the present monopoly scheme. When public suspicion as to its existence was aroused, the following communication was delivered to President Scott:

To the President and Directors Pennsylvania Railroad Company:

GENTLEMEN: About July 1 last the undersigned were of a delegation from the oil region of our State, asking of your road an assurance that its course during the preceding two months, in giving to all producers and shippers of petroleum equal facilities and impartial rates, might be formally made its permanent policy.

In an interview with your president at that time that assurance was given, coupled with the requisition that such support should be given it by the producers and shippers as would repay it for the exertion it must make in defending that policy, and guarantying that such support should be continuous and permanent.

The people of the oil region were only too glad to enter into such an agreement, and steps were immediately taken of a practical nature to carry it out.

It was understood that it could not be immediately done.

After the formal abandonment by the trunk lines of the South Improvement Company in 1872 your road for some months faithfully adhered, we believe, to the pledge then given by all the trunk lines that no discrimination should thenceforth be permitted. We believe, also, that it stood alone among the roads in adhering to it, for gradually the persons constituting the South Improvement Company were placed by the roads in as favorable a position as to rates and facilities as had been stipulated in the original contract with that company. At this time the line of your road in western Pennsylvania, including that under your influence and control, was dotted with refineries capable of producing a large proportion of the refined oil needed by the world.

The policy of the Standard Oil Company, the successor in everything but name of the South Improvement Company, has resulted in the dismantling and abandonment of every one of those refineries (as soon as they fell into their possession) which could not be reached by some other and a rival road to yours, and now there are in the oil region proper but few refineries and those universally owned by the Standard Oil Company, those in Pittsburgh being owned or controlled by that combination or by the Conduit or Empire lines. The use and export of crude oil is but a small proportion of the consumption, and time and money were required to re-establish this great product upon its former basis, and these people were glad to furnish all needed means to accomplish this end, as are also capitalists at other points not strictly within the oil region, yet upon your lines.

We are met in the midst of this preparation by assertion of agents of the combination, and as accepted news by the press, that such a combination is entered into or under consideration by your road and the Empire Transportation Company, the Erie, Central, Lake Shore, and Baltimore roads of the one part, and the Standard Oil Company of the other, as would preclude your road from carrying out the policy announced by your president at the interview heretofore referred to.

We believe there is danger that such a result may be reached, and we, in behalf of those whom we represent, in making our efforts to prevent its accomplishment, or if accomplished to defeat it, as the first step, address this communication to you, desiring to present its aspect as affecting your road from our standpoint.

So far as we and the general public are affected, you will not question that the present scheme is but the repetition of the South Improvement scheme, never abandoned by its authors, and seeking the sole and absolute control of all petroleum produced, purchased, refined, and shipped within the States of Pennsylvania, New York, Ohio, or West Virginia.

The overproduction of 1873-'74-'75, and the consequent almost entire destruction of petroleum values, gave the Standard Oil Company, with its organization and capital, almost the desired monopoly. The equalization of consumption and production in 1876-'77 brought that combination to the same point that they were in 1872—utterly unable by reason of geographical position, if for no other, to monopolize this product without the co-operation of all the transportation, and then only under a contract similar to that of the South Improvement Company, and including all of its dangerous and extraordinary features. None other can serve them, and so they stand to-day, and we believe that your road can enter into no compromise, treaty, or arrangement which will serve the ends of the monopoly, under any less stringent stipulations and devoid of the liabilities thereof.

Under such an arrangement it is probable that the Central and Erie have transported its oil during nearly all of this year. It is now an open secret in the producing region that no charges follow the shipments over at least one of these roads, and crude oil is delivered in New York, in shipping order, at prices which barely repay the cost of packages and contents, with little or no remainder for transportation charges. This aid to the scheme of the combination is possibly given in view of the high tariff and consequent large revenue promised to be derived hereafter, when the scheme has been made a success, and all opposition in trade and transportation extinguished.

Suppose your opposition to be withdrawn and you join the alliance, when does your profit come in? We are entitled to impartiality. As we are advised, the law, common and statute, provides for it; it pronounces those participating in such a scheme conspirators against the public weal, and there is no court upon your line but what will enforce by mandamus and injunction the impartiality that we ask. The combination will promise you an immediate increase of revenue. If we are well advised, will you realize upon that promise? Can you make a contract with them that if we do not succeed in destroying it will be to their interest to keep? You will not have a refinery left; and they are now completing pipe lines from Pittsburgh to Oil City, and can deliver the oil received by all their pipe lines, independent of your road and its branches. In case of a contract with them executed but afterwards broken, from what source will you derive your oil traffic, and what court will enforce the broken contract in your favor? We urge that you can not enter into any arrangement with the monopoly that can be permanently useful to it and to you, and doubt if it can be made temporarily so.

Suppose that you decline to enter into such a treaty, or any such scheme, but announce and adhere to the opposite policy. There is no law, not even that of necessity, to compel you to serve the ends of the Standard Oil Company.

If Messrs. Vanderbilt and Jewett believe that their aid alone is insufficient to the establishment of the monopoly, for how long will they carry its oil as at present, for nothing, when they could have full rates by uniting the railroad interest and leaving the Standard Oil Company to do its business in common with all others?

If the Pennsylvania Railroad, having the geographical position in its favor, will announce and adhere to the policy of impartial and competitive rates, in three or six

months it can have all the facilities and extent of business which the Standard Oil Company can give the competitive roads, and by men who have all to gain by so doing.

We ask consideration of our views and of our assurances of good results from their favorable consideration.

If you choose to place the matter in the light of an experiment, its trial can cost you nothing but the failure to realize upon the immediate fulfillment of the promises of the common enemy, and that realization we believe will not be permitted.

Very respectfully,

B. B. CAMPBELL, of Pittsburgh.
E. G. PATTERSON, of Titusville.

PHILADELPHIA, September 11, 1877.

TESTIMONY OF BENJAMIN BREWSTER.

BENJAMIN BREWSTER, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside ?—A. New York.

Q. What is your age ?—A. Fifty-nine.

Q. What is your business ?—A. I am in the oil business ; vice-president of the National Transit Company.

Q. Have you any other position in connection with the management of the Standard Oil Company ?—A. I am a trustee of the Standard Oil Trust.

Q. When did you first become connected in any manner with the oil business ?—A. In active participation ?

Q. In any way with the oil business.—A. Either in 1880 or 1881.

Q. In what capacity did you first engage in it ?—A. I came in as an adviser, perhaps, but when the National Transit Company was formed I have been vice-president since its organization.

Q. Then your first connection in the oil business was with the National Transit Company ?—A. Substantially that.

Q. Had you ever been interested in the refining of oil in any manner ?—A. Never.

Q. Or the production of oil ?—A. Never.

Q. What business were you engaged in before you went into this ?—A. I was a resident of California from 1849 to 1867 ; then I was in the railroads in New York after that. Afterwards I was vice-president of the Omaha Railway, and then went into the Standard.

Q. Had you anything to do in California with the sale of oil ?—A. Nothing whatever.

Q. Were you in any way commercially connected with it ?—A. No, sir.

Q. Now, do you remember the period at which the Tide-water Pipe Line first commenced business as a competitor of your company ?—A. I do.

Q. Can you tell us what the railroad freights on oil were about that time or afterwards ; any freights that your company paid ?—A. I can not ; I know there was a sharp fight in the reduction of rates. What the rates were or how long continued I do not know.

Q. Was not that sharp fight by the railroads in consequence of this new competition brought about by the Tide-water Pipe Line ?—A. It must have resulted from some cause, and very likely that was it.

Q. Do you know of your own knowledge, or in any manner, of any discussion—and now when I ask you this question I do not care where this discussion took place or how—between your interest and the trunk lines as to what treatment should be given to the question of oil freights in consequence of the introduction of this new competition ?—A. I do

not. If any such meeting was ever held anywhere I was not cognizant of it, and did not hear of it.

Q. Have you never heard it stated or charged by some of your people that they were willing to pay at that time whatever rate the railroads wanted, but that the railroad companies determined to put down the rate in order to prevent the introduction of this new competition?—A. I do not think so.

Q. You do not?—A. I do not.

Q. Can you remember the lowest rate to which the transportation of crude oil on the trunk lines at that time went?—A. I have already said I do not know the lowest rate. You have suggested 15 cents, but my impression was that it did not go as low as that.

Q. How low have you knowledge?—A. I have in my mind a rate of something like 25 cents, but I am not certain of that. I was comparatively new to the oil business at that time.

Q. Twenty-five cents a barrel on oil to New York from the coal fields would be about $3\frac{1}{2}$ mills a ton a mile, would it not?—A. That is a matter of figures which of course you know. It was understood at that time—I recollect that—that the business was being done on a losing basis.

Q. The committee do not know, and although I know, I am not a witness. I would like you, as a business man, to put down on the minutes of this committee just what those figures amount to.—A. If you will give me the data and the committee say I shall furnish the figures, I can make the computation.

Q. The practical distance of the coal fields from New York is about 500 miles by railroad?—A. It was so testified yesterday, and I believe it is, but I am not positive.

Q. There are about 7 barrels of crude oil in bulk to the gross ton, are there not?—A. Yes, sir.

Q. In round numbers?—A. Yes.

Q. About 7 barrels to the ton?—A. Yes.

Q. Twenty-five cents a barrel, therefore, would be \$1.75 a gross ton.—A. Yes, sir.

Q. One dollar and seventy-five cents a gross ton for 500 miles would be $3\frac{1}{2}$ mills per gross ton per mile for the transportation?—A. That seems to follow.

Q. I must get something down as a fact upon the minutes. Have you any knowledge in your experience as a railroad man of the cost of moving freight by railroad?—A. Not as an expert.

Q. You have been connected with railroads?—A. Merely in an advisory capacity as a director, and one time vice-president; but not as a manager.

Q. Now, Mr. Brewster, to go back to the National Transit Company; you are the vice-president?—A. Yes, sir.

Q. You have been the principal manager of it, really—the executive manager of it?—A. In certain ways.

Q. Who is the president?—A. Mr. Griscom.

Q. Does he take an active part in it?—A. He does not.

Q. He is one of the managers of the Pennsylvania Railroad as well, is he not?—A. He is a director.

Q. And largely engaged in other business in Philadelphia?—A. Yes, sir; president of the steam-ship company.

Q. Is he a stockholder in the National Transit Company?—A. I do not think he is, except as a director.

Q. I notice that your trust holds 94 per cent. of that stock. Do you know who holds the other 6 per cent.?—A. I think I do.

Q. Can you give us the names?—**A.** Not unless so advised by the committee; it is a private matter.

Q. I am not asking you to give the amounts which they hold, but only the names of the people who hold that stock without regard to the amounts.—**A.** I shall decline to answer that, unless——

The CHAIRMAN. What is the question?

Mr. GOWEN. The question is whether he will give us the names of the minority who hold the other 6 per cent. of the stock of the Transit Company. The Trust holds the other 94 per cent. The question is solely as to who the people are, and not as to the amount which each holds.

The CHAIRMAN. Is this gentleman the officer having charge of the stock list?

Mr. GOWEN. He is the vice-president, and says he knows the fact.

The CHAIRMAN. I see no objection to that. Under the ruling of the committee—and I state that in order that the witness and his counsel may understand it—as made in the sugar-trust investigation, the names of the persons interested in those various matters have been disclosed, but not the extent of their interest.

Mr. CROUSE. This question calls for the disclosing of the names of the men who are not at all connected with this business that we are investigating. I do not know that there is any harm in it. I just state it as a fact.

The CHAIRMAN. As I understand it, this is an inquiry to furnish a list of the names of the stockholders of one of the corporations included within the Standard Trust organization.

Mr. GOWEN. Yes.

The CHAIRMAN. The Standard Trust being a stockholder for 94 per cent., and somebody else being a stockholder for 6 per cent. Now it seems to me that under the ruling of the committee that testimony is proper.

The WITNESS. My point is, if you please, Mr. Chairman, that it is purely a private matter as to who may or who may not hold the outstanding shares of this stock, and that is a matter which can not interest the public, or is not germane or pertinent to the inquiry of this committee. It is a disclosure of private business which is not called for under this line of inquiry. That is my feeling about it.

The CHAIRMAN. Of course the practical situation is this: a majority of the committee is not here, and we can not therefore go into executive session to determine a question of that sort, and it is therefore impossible for me to announce any ruling as coming from the committee. I can only say to you that the ruling of the committee upon a similar line of inquiry with regard to the Sugar Trust required that that information should be furnished, we thinking it was pertinent to the question and indicating clearly what the extent of the union of these interests was. I am unable to say more than that to you now. I simply suggest to you that it will be impossible for me to excuse this witness from the witness-stand, this question being asked and he declining to answer it, until the majority of the committee shall determine whether or not they will require the answer.

The WITNESS. I wish to give all the information here I can; but the feeling I have is that it is probing into a private matter which is not called for.

Mr. GOWEN. You must let us be the judge of that?

The WITNESS. I am speaking of the feelings which move me in taking the position I do.

By Mr. GOWEN:

Q. The ruling of the chair is that I have a right to that answer, so I shall press you for an answer.—A. I decline to answer it at this time. Perhaps after discussion with my counsel I shall.

Q. I do not want to annoy you. When you tell me you will not answer, I shall either apply to the proper authority or not press the question. Do you know who owns the outstanding interest not controlled by the Standard Trust in the Bush and Denslow Manufacturing Company?—A. I do not.

Q. I am going through this list in the same way. In order to save time, if you will say to me that you do not or will not answer questions directed to ascertain who owns the minority interest in all these corporations in which the Standard Oil Trust is interested, I will take that answer until I can apply to the proper authority.—A. If you please, I will make an answer that will save time. I may or may not know; but I will make that answer.

Q. Do I understand you to say that you will decline to answer, even if you have knowledge as to whom the people are who own the minority or other interests in the various companies and associations in which the Standard Oil is interested?—A. That is my present answer for the same reason.

Q. That you will decline to answer?—A. Yes, sir.

Q. And you will decline to answer, although the question is directed solely to the names of the people, without regard to the amount which they may hold?—A. Precisely.

Q. Now, Mr. Brewster, you have a contract with the Pennsylvania Railroad, by which you agree, as Mr. Archbold says, to give to them 26 per cent. of the business?—A. Yes, sir.

Q. Since the making of that contract the rates upon crude petroleum going east have been the same on the Pennsylvania Railroad and in your pipe lines identically?—A. They have.

Q. You receiving, in addition to the rate for your main line, a rate on your local lines of pipe—the pipage lines?—A. That being a separate service.

Q. And you also receive a compensation for the separate service of storing oil in tanks, do not you?—A. We do. And I would like to make one remark in regard to this local pipe service which has not appeared here, and which, perhaps, the committee do not understand. This local pipe service is measurably on the same principle that the United States carries a letter 1 mile or 1,000 miles for 2 cents. We undertake to connect with the wells throughout the regions, whether it is a small well or a large well, whether it is near or remote, and I think the testimony of the producer will be that we have been diligent and faithful in that service.

Q. Then there is another item.

By the CHAIRMAN:

Q. Now on that point, before you pass to another item, do you, in fact, connect with every well?—A. We do in fact connect with every well that we are requested to, unless a man should ask something that is absurd; that we would decline to do. I wish to say further, that this 20 cents is collected in when the work is done. We lay this pipe and make this expenditure. We take this oil into the line subject to that lien, and oil that has been in the tanks five years or ten years we have collected nothing for doing the service. That is to say, this local pipage charge is collected only when the oil is delivered; so that when we had

30,000,000 of oil in the tanks, we had collected not one cent for the service of collecting that. I think it is only fair that the committee should understand something of the nature of the service.

Mr. GOWEN. I was not driving at anything with reference to the charges for it, but only with reference to doing the business. But since you have spoken of it, the 30,000,000 of oil on storage were not in the pipe lines, but in the tanks?—A. Yes, sir.

Q. You receive a rate for that?—A. Yes, sir; but not until it is delivered.

The CHAIRMAN. What Mr. Brewster means is, that the expenses are incurred by them, and it is not repaid to them until the certificate, as I take it, for the oil is presented.

Mr. GOWEN. Yes.

The CHAIRMAN. That is the only fact I want to get.

By Mr. GOWEN:

Q. The actual flow of oil out of the pipes has amounted nearly to 26,000,000 barrels a year?—A. Yes, sir. Now we are beginning to make this collection, but up to the time when we accumulated 40,000,000 of barrels of oil, 39,000,000 and had built nearly 40,000,000 of tankage we were spending money much faster than we collected.

Q. But that was a certain amount of capital which you were to get out whole on eventually. I mean was not the flow of oil out of your pipes every year within 10 to 15 and one year probably 20 per cent. of the total amount that flowed in?—A. More than that. I mean to say there was a greater percentage of accumulation there for several years, and substantially now you see it is the same. I only thought it was fair for the committee to understand just what the service was.

Q. But the accumulation of 39,000,000 was the largest ever known. It was the accumulation of an overproduction, extending back over several years?—A. Yes, sir.

Q. There has not been any year within the last eight or ten in which you did not get 20,000,000 to 26,000,000 barrels out of your pipe lines every year, the highest being 26,000,000 and the lowest in that time being 20,000,000?—A. Perhaps so.

Q. Actual shipments?—A. Yes, sir.

Q. Now I want to ask you about storage and tanks. In the storage and tanks the longer it remains the greater the deposit is of sediment in the bottom?—A. I believe that to be true.

Q. And when that tank is drawn off the upper oil free from sediment is better than the lower?—A. Only that is merchantable oil. That is the only oil we have the right to deliver.

Q. The other oil, which is not merchantable, is frequently taken out of the tanks, manipulated in some manner to make it flow, and is sold as unmerchantable oil. You must get rid of that product?—A. To a certain extent.

Q. That deposit may even be as deep as 4 to 5 or 6 feet in the bottom of a large tank?—A. I can not swear as to that; but I think that would be a very full deposit.

Q. From 4 to 6 feet. You do not think it should be that much?—A. I do not know.

Q. Now, in taking oil into the tanks for storage, the practice is to give to the man when he calls for his oil that has been in store exactly the same amount of gallons that he put in, is it not?—A. That is what we agree to do.

Q. And you lose whatever evaporation or other loss there may be in storage?—A. Yes, sir.

Q. You lose that and have to make it up?—A. The line loses that.

Q. In taking oil into your pipe lines for transportation you make a certain deduction from the amount that is taken in in order to cover waste?—A. Taken into the local lines?

Q. Yes.—A. We do.

Q. What is that percentage?—A. Two per cent.

Q. In other words, a man puts in 1,000 barrels of oil, of which your local line gets credit for 980?—A. That is as I understand it.

Q. The 1,000 barrels of oil which are put into the tank for storage, when it is taken out the man is entitled to an equal thousand?—A. We must deliver a thousand.

Q. Now, can you tell me as a matter of fact whether the gain upon the 2 per cent. which you take into the lines is equal to or overcomes the depreciation which you suffer on the oil which is stored in tanks?—A. It does not.

Q. What proportion of it do you suppose belongs to it—a half?—A. It depends upon how long you store the oil. So long as you store the oil you must be continually buying to keep your oil together. I am giving you the facts. On the 1st of September of each year we make an inspection and we make up our deficiency. I have not those figures at hand, but it requires a considerable fund to maintain our stock of merchantable oil, and it is no small thing to buy half a million barrels of oil and cancel the certificates.

Q. Half a million barrels is upon an enormous business for the whole year?—A. Yes, sir.

Q. Half a million barrels of oil would be 2 per cent. of 25,000,000?—A. Yes, sir.

Q. Could you tell me as the exact result of any one year's operation how far the 2 per cent. allowance which you get on oil taken into the pipe lines has overcome the loss which you make on the oil in the tanks?—A. I can not tell you, except that I know that there is a very considerable expense to the pipe lines in addition to that.

MR. GOWEN. I do not care to ask you any more questions, except submit to the committee or the House.

THE WITNESS. If you will allow me I will consult with my counsel about it.

By Mr. SMITH:

Q. Can you state how many square miles are embraced in the oil region of Pennsylvania?—A. I do not know.

Q. Is the oil country north of Pittsburgh contiguous?—A. I should say it was; almost any of these gentlemen can tell you better than I can.

Q. Can you state the longest line of local pipe in that district that you have?—A. Connecting with a single well?

Q. Yes.—A. I can not. I know that we are asked now to connect with a well 9 miles, a single well.

Q. And you charge 20 cents a barrel for forcing oil through 9 miles of pipe?—A. We charge 20 cents a barrel for collecting this oil and laying this line. The contract is we shall receive 20 cents from them when the oil is delivered, which may be next year or ten years from then. I merely state that as being the understanding.

Q. This 9 miles of pipe which you have spoken of leads from where; from your receiving station to the well?—A. From the receiving tank to the well.

Q. The producer has a tank of his own in which he pumps his oil; is that so?—A. The well tankage.

Q. And all you have to do is to lead your pipe to that tank so as to tap that tank?—A. That is what we do.

Q. Are you obliged in some cases to have a pump right there at the tank to force it either by pressure or suction?—A. Pressure.

Q. Do you apply suction?—A. I do not think so.

Q. Do you think that 20 cents is a fair charge for conveying oil through a 2-inch pipe 9 miles?—A. That question covers perhaps more ground than you are aware of. If your well is a 5-barrel well, you probably would not get enough out of it to pay for the expense you are put to in laying that line. If it were 1,000 barrels it would be very cheap. As I said before, we do the business on the same principle that the United States carries a letter 1 mile or 1,000 miles for the same price. That must be generalized, if you please, as the elevated railroads in New York.

Q. What kind of pipe do you use?—A. Wrought-iron pipe.

Q. What is the cost per foot?—A. I do not know; perhaps 20 cents; I am not certain about that.

Q. By buying it in large lots?—A. Perhaps I am wrong about the price; I do not know.

Q. Did you ever tap a tank that was less than 1,000 barrels?—A. I should say 50-barrel tank.

Q. The testimony here goes to show that the tanks are generally of 1,000 barrels capacity, and when they are filled, whether with 5 barrels or 500 barrels, it is measured and tapped?—A. Are you right about that?

Q. So far as I can get at the testimony furnished, they are 1,000-barrel tanks.

Mr. GOWEN. I think that the testimony showed that they did not give a certificate for less than 1,000 barrels. They never issued a negotiable certificate for less than 1,000, and any fractions of 1,000 were credited on their books until it amounted to 1,000 barrels.

Mr. SMITH. Perhaps I am wrong. (To the witness.) You charge 20 cents a barrel whether it is 9 miles or one-half a mile?—A. We do.

By Mr. GOWEN:

Q. The 20-cent charge for the local pipeage covers the distance to the point at which you deliver it to the main pipe or the railroad. It covers your entire system to the main pipe?—A. Yes, sir.

By the CHAIRMAN:

Q. Where you speak of a well where you are to lay a pipe 9 miles long, do you mean it is 9 miles to the point where you reach the railroad, the main line, or is it 9 miles to the point where you connect with the rest of your local system?—A. Nine miles to the receiving tank.

Mr. GOWEN: He means he must lay a pipe 9 miles to get oil from the well at which he went to.

The CHAIRMAN. This is the impression I have got from his testimony. You lay pipes to each well and you bring them down to a point where two wells meet. From that point you only carry one pipe?—A. Wherever it is practicable as a matter of engineering and is cheapest and best.

Q. By the time you meet the railroad you have put into this local pipe line oil from a dozen wells?—A. That may be. I would like, if you please, to say that it occurs to me the testimony may have been improperly reported, but Mr. Kirk, in his evidence regarding my con-

nection with the Producers' Protective Association, it seems to me, left it in rather a muddled condition. I would like to say that at a suggestion from the producers Mr. Archbold and I met a committee at Saratoga, where a full discussion of the situation was had. The impression prevailing among these gentlemen was that their distress was due to arbitrary methods on the part of the Standard Oil Company; that oil was unduly depressed by the Standard Oil interest.

By Mr. GOWEN:

Q. Depressed in price?—A. Yes, sir. Our position was and is that the Standard Oil Company does not, never has, and never intended to make a market, and to make a price for crude oil. Our statement to the committee, which can be verified by every gentleman present, was that we did not anticipate and would not undertake to make the price of crude oil; that the general public, the trading market, could and would make and did make it in the past; that what we would undertake to do was to take that oil and bridge it to the consumer at the lowest reasonable price. Now later, oil advanced. On this arrangement oil has fluctuated since. The Standard Oil Company have pursued simply their ordinary course of buying at the market, whatever it was, and selling their refined in accordance with that price. Now oil advanced to 96 or 98 cents. The corresponding price of refined should be 7½; about that. It varies, say, an eighth of a cent per gallon on every 4 or 5 cents advance or reduction in the price of crude. We do not know much about it, but as near as our impression is the selling of it came from the West; the market was broken by Western sales, but we do not know positively about that. Now, the producers came to us, Mr. Kirk among others, and said, "Hold your price of refined oil." We said, "It is an unnatural position to be in. The exporter knows what this oil is selling for; you are holding it at an eighth above and you are going to stagnate the prices—stagnate the business. It is bad for you and for us; it is an unnatural position to be in. What we want to do is to let the pendulum swing, and the commercial market will fall and you will check your trade less, and it will be better in the end for all of us." But we did listen to the desires of the producers, and held oil at a price above where it should really have been, not to our benefit or theirs either.

By Mr. SMITH:

Q. To whose benefit?—A. Nobody's benefit. It was an unfortunate thing, and it was a mistaken business judgment, as I looked at it, to have cut loose from the principle that crude oil at 50 cents means a certain price of refined, and at a dollar means another price. It was an unfortunate thing for both of us. I simply want to state the fact as it is.

Q. You seem to have been very innocent in the business transactions with the large corporation you represent.—A. I should be very glad to take you into our confidence now, and you will find it is very innocent. I am one of those who do not believe that sharp practice makes money. I believe in being straightforward; that there are certain laws that govern commerce as much as the law of gravitation, and that supply and demand control; that while you temporarily interrupt it you do not and can not interrupt it permanently; no set of men can do it. Mr. Kirk has reported me as saying at Buffalo, I think, that I could put oil up 2 cents or 3 cents a gallon and the world would take it. Now, what there was of that certainly was not my opinion, as you will see from the nature of things. In discussing the matter the question was raised that higher crude oil would affect refined oil, American petroleum. Our re-

sponse to that was that we believed that the producer is entitled to a fair return for his money; we believe that the country is more prosperous and that we are all more prosperous.

Q. Where is the demarkation line on a fair return?—A. That is a question on which we might differ; but when I say a fair return, I mean what a jury will say is a fair return.

The CHAIRMAN. I do not want to interrupt you in answering, but I think you are going very far from the facts which are important here.

The WITNESS. I am answering testimony which was given here as to my assertions, and I think the impression left upon the committee was a mistake. I think the thing was left in rather a muddled condition.

Mr. GOWAN. So far as I have called you as a witness, and so far as I have examined any witnesses in this case, they have been directed to a subject not at all connected with anything that Mr. Kirk testified to, nor was I here nor do I know anything about that. If you want to make any statement as to that, there is no objection to it coming in here as something entirely apart from what I am driving at.

[Here the witness held a consultation with his counsel.]

The WITNESS. After advising with my counsel I am of the opinion that it would be disclosing personal matters, and therefore I decline.

By Mr. GOWEN:

Q. That is, you decline to give the names of the people owning the minority stock in your various corporations?—A. Yes, sir.

Q. Now, you have stated that this question of the price of any oil or any commodity depends upon the law of supply and demand?—A. Yes, sir.

Q. What do you consider to be the law of demand; does that not greatly depend upon the number of people who are in the market to buy anything?—A. If you will allow me, the demand is not the parties who are buying; it is the consumer. He is the man who makes the demand; it is the consumer who makes the demand.

Q. The question is as to the price of crude oil. Now, practically you are the only purchasers for at least 75 per cent. of that product, are you not?—A. By no means; no, sir. We may be the consumer or may be the manufacturer of 75 per cent., but that we are the only buyer is by no means true, Mr. Gowen, and the statistics will show you that we are the buyers of an infinitesimal part of the oil trade.

Q. You are speaking now of a stock exchange purchaser, who is distinguished from a legitimate, business purchaser?—A. If you say "buyers," I will state to this committee that we are the buyers of credit balances, if the committee understand what that is, as they are offered to our agents throughout the oil regions at the bidding price, or on the exchanges at a high or low price. I do not believe there is such a market for crude material in the world as the Standard makes for crude oil.

Q. You issue a negotiable certificate, in thousand-barrel lots, for oil that goes into your system of pipeline; that is a negotiable instrument which is dealt in on the stock exchange or oil exchanges of a great many commercial centers?—A. Yes, sir.

Q. In consequence of that there is arising a gigantic speculative dealing in this particular, which in time fixes the price of this commodity irrespective of any business demand for it?—A. Reasonably so. That applies to all merchandise; it is not an exception.

Q. Now, just confine yourself to the oil. With reference to the absolute mercantile use of this product of crude oil, you gentlemen manufacture at least 75 per cent. of it, do you not?—A. We manufacture 75 per cent. of the amount that is manufactured. I think about $6\frac{1}{2}$ per cent. of the crude is exported.

Q. How much of the crude exported, or, at least, what proportion does the crude exported bear to the total shipment of crude oil in a year?—A. What is the idea?

Q. How much of the crude oil that is shipped from the oil region in a year is exported as crude, either in percentage or barrels?—A. The figures I have in my mind are about one and a half or two millions of barrels of crude exported. That is what I have in my mind.

Q. One and a half million barrels would be about 8 per cent. of the total shipments in crude. The total shipment is twenty-six million.—A. That is the total consumption. The total consumption is about twenty-six millions; that is not all exported.

Q. I know it is not all exported.—A. You say the amount exported.

Q. No. What proportion of the total amount of crude oil that is shipped in a year and leaves the wells? How much of that total 26,000,000 goes abroad in the shape of crude oil?—A. That would be about 8 per cent.

Q. Of that you have about 6.3 per cent. ?—A. Yes, sir.

Q. That would give you practically 5 per cent. of the whole. Six and three-tenths per cent. of 8 would be equal to 5 per cent. of the whole. Six and two and a half tenths per cent. of 8 would be equal to 5 per cent. of that given amount?—A. Yes, sir.

Q. Therefore your business in crude oil is equal to 5 per cent. of the total production of crude oil that in one year leaves the wells?—A. Yes, sir.

Q. Now to go back to this question of supply and demand. Suppose you were the only manufacturer of crude oil in the United States, and there were no other refiners and no purchaser but yourself; don't you think you would fix the price at almost whatever you thought right, and would be only governed by moral questions in controlling it?—A. My answer is no; emphatically no.

Q. Why?—A. Because in this country the eyes of the people are looking for investments; they are looking for that which is cheap and buy it, and for that which is dear and sell it, and no man or set of men can occupy that position and hold it.

Q. That is no answer.—A. At the moment many things may be done; but my point is this, that the reaction is like a relapse of typhoid fever. My point is this, that the Standard Oil Company can never afford to sell goods dear.

Q. That has not answered the question.—A. I have answered the question; I say, "No."

Q. If you were the only purchaser of oil in the United States for refining purposes, would not you have it in your power to fix the price?—A. If we were the only purchaser, and guaranteed by law that nobody else should come in, "Yes." But we have no franchises that everybody else can not obtain. That is not our position, and it is not right to assume it.

Q. Yes, it is. How could anybody else come in if you were the sole refiners in the United States?—A. Have you ever known any one man to occupy a field, or any one corporation, a great while without being discovered?

Q. You could not hold it long, but in the short time you occupied it you would make \$300,000,000 or \$400,000,000?—A. Oh, no. You are not under oath, but you are getting as wild as some of these people have been who are under oath.

Q. If you had the total control of the petroleum refining of this country for two years and nobody else had a refinery, could you not practically make the price of crude whatever you pleased?—A. Within reasonable limits. They would get to dipping tallow candles in the old-fashioned way if we got it too high.

Q. A barrel of refined oil has often been sold in the past as high as \$10 or \$20, has it not, in the long past?—A. Yes; I take it for granted it is so. Twenty dollars is a little extreme.

Q. Often between \$10 or \$20? Now \$10 a barrel for refined oil would only be 20 cents a gallon for one of the best illuminating materials in the world—50 gallons to the barrel?—A. I can not get these things through my head as quick as you do; but I will assume that is so.

Q. Do you think 20 cents a gallon is really or would be considered an extravagant price for a man to pay for so good an illuminating substance?—A. I believe refined petroleum at 20 cents a gallon is cheaper than any illuminating substance that I know.

Q. In the world?—A. That I know of.

Q. Now, if you had control of this business for two years and got 20 cents a gallon for your product, which is \$10 a barrel, and paid \$1 only for oil at the wells, you would make \$100,000,000, would you not?—A. I must say with all respect that I am reminded of Mrs. Toodle's baby. If she had a baby, and it should grow up and should fall into the fire, what a terrible calamity that would be. It is as remote as that.

Q. Why?—A. Because this is a live country and nobody has any special franchises.

Q. That is the only reason?—A. That is an absolute reason.

By Mr. SMITH:

Q. Do the oil certificates issued to producers sometimes circulate as currency?—A. No, sir.

Q. They do not?—A. I never heard of such a case.

Q. Can not they be used that way?—A. I never heard of such a case.

Q. Won't they pay a debt?—A. Not unless the receiver is willing to accept them.

Q. Exactly.—A. You can trade barleycorns if both parties are willing.

Q. I know, but barleycorns will not circulate as easily as those certificates.—A. They are not currency in any sense of the word, Mr. Smith.

The CHAEMAN. Mr. Brewster, I can not excuse you. You will have to be here on Monday morning.

Mr. Choate, as counsel for the witness, presented the following reasons for his refusal to answer question as above shown:

We think the witness ought not to be required to answer the question, "Who owns the 6 per cent. of the stock of the National Transit Company?" other than the 94 per cent. owned by the trustees of the Standard Oil Trust because it has no bearing on the nature or operation of the Trust, or on any question that can possibly come before Congress for legislation on the subject. It is wholly immaterial to any question submitted to this committee by the resolution under which they are acting who owns the 6 per cent., it appearing that the Trust has no interest in them.

The decision of the committee, by which, in investigating the Sugar Trust, they required the witnesses to name the parties interested in the Trust, is wholly distinct from this. We have fully and freely disclosed the names of all parties interested in the Trust.

Mr. CHOATE. Mr. Chairman, is there any objection to excusing Mr. Brewster until Tuesday morning, so as to enable him to go to New York, and the committee notifying him in the mean time whether he will be required to return?

The CHAIRMAN. We will make it Tuesday morning. That will give us an opportunity to have a meeting of the committee on Monday, and we will notify you during the day on Monday in case the committee decide to excuse you.

The understanding is that Mr. Brewster is excused until Tuesday morning, and is required to be here at that time, unless notified to the contrary during the day on Monday.

The committee then adjourned until Monday, April 30, at 11 o'clock a. m.

WASHINGTON, D. C., *April 30, 1888.*

The committee met at 2 o'clock p. m.

Present, the chairman and Messrs. Bynum, McKinney, Grimes, Crouse, Smith, and Buchanan.

TESTIMONY OF DAVID MOREY.

DAVID MOREY, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. In New Orleans.

Q. What is your business?—A. I am the general freight agent of the southern lines of the Illinois Central Railroad Company.

Q. Have you the charge of the rates on oil shipped over your line?—A. I have, originating on the southern lines of the Illinois Central.

Q. Where do these southern lines extend?—A. From Cairo to New Orleans.

Q. Do you remember a printed circular advancing the rates on oil to private individual shippers—or rather what changes have you made in the rates on oil in your line to private shippers within the last three years?—A. I have made no difference in rates. They have all been the same to all shippers.

Q. All shippers?—A. Yes, sir.

Q. Have you made a difference in oil carried in tank cars as compared with the rates on refined oil carried in barrels?—A. We did have a different rate, but now they have been changed.

Q. When was that change made?—A. It was about the first of April.

Q. Of this present year?—A. Yes, sir.

Q. Prior to the 1st of April of this year what was the difference in your rate per 100 pounds between the rate on oil carried in barrels and oil carried in bulk in tank cars?—A. I do not know that I could answer that exactly without having the tariff.

Q. You were asked to bring the tariff with you, were you not?—A. No, sir; I think not.

Q. Yes, at least the subpoena is returned as having been served on you to bring all the rates?—A. I did not understand that I was to bring the rates.

Q. Have you the subpoena in your pocket?—A. Yes, sir.

The WITNESS (exhibiting subpoena). In which paragraph is that referred to?

Mr. GOWEN (reading subpoena handed to him by the witness). "The rate of freight charged and received;" that is the paragraph.

The WITNESS. The general officers of the Illinois Central Railroad are at Chicago, and the records are not kept on the southern line. Mr. Fairman is here, the freight auditor of our road in Chicago, with those documents, as far as he could work them up in the limited time he had.

Q. Do you mean you have got in your office no records of the rates you have charged in the last three years on oil?—A. Yes, sir; we have.

Q. What have been the rates per 100 pounds on oil in tank cars, and per 100 pounds on oil in barrels?—A. I have not got them with me. Mr. Fairman has the copy of the billing, which I understood this subpoena calls for.

Q. Can you tell us what the rates were?—A. I could from memory. The rate from Marietta to New Orleans was \$1 per barrel during a portion of the time, I think all the time.

Q. Carried in what manner?—A. In wood.

Q. What was the rate per barrel on oil carried in tanks or per 100 pounds?—A. I do not think there was any oil shipped in tanks from Marietta. From Cleveland to New Orleans it was from \$85 to \$100 per tank.

Q. Can not you tell us exactly?

The WITNESS. Mr. Fairman, have you got that billing?

Mr. GOWEN. While he is getting that please state whether the rate on oil in tanks continued over your lines running southward the same for two or three years.—A. Yes, sir; I think they were the same for those three years.

Q. How often during those three years were the rates changed on barreled oil?—A. I do not think they were changed at all from Marietta. From Cleveland, I believe, the rate ranged from \$1.57 to \$1.50 and \$1 during that time. I can not tell the dates.

Q. On barreled oil?—A. Yes, sir.

Q. How many barrels to the tank do you allow when you make a rate per tank instead of per 100 pounds?—A. It is considered that they would range to-day from 85 to 100 and a very few 125 barrels; but I do not know that any of those latter ever went South over our line.

Q. But you had a fixed rate per tank on oil at so many dollars for a certain distance, did you not?—A. To New Orleans; yes, sir.

Q. Do you not know that those tanks vary from 70 to 120 barrels?—A. The tanks sent to our line were represented to contain about 85 barrels, and from that up to 100 barrels; in some very few instances 120 barrels, but I think they would average under 100.

Q. Did you ever gauge them?—A. They have a book showing the gauge of the different tanks.

Q. But did you ever gauge them?—A. No, sir.

Q. Or have them weighed?—A. Sometimes.

Q. As a general thing did you have them weighed?—A. No, sir.

Q. Then you had a fixed rate on these oil tanks irrespective of their capacity?—A. Yes, sir; we had a rate per tank that was considered safe to carry not to exceed 40,000.

Q. But when a man ships oil in barrels over your road, no matter whether he put 50 or 100 barrels into the car, you always charged him for the number of barrels?—A. Yes, sir.

Q. State whether the rate per 100 barrels for oil in barrels was not higher per ton per mile than the rate for oil in tanks?—A. It was somewhat higher per ton per mile in barrels.

Q. How much higher, do you suppose?—A. I never made the calculation.

Q. You are a freight agent and you ought to know more than any of us about it?—A. I would suppose about 20 to 25 per cent. higher.

Q. Did you never have a rate per 100 pounds on barreled oil as well as a rate per barrel during this time?—A. Do you mean a rate to New Orleans or to a local station?

Q. Any rate going South?—A. The rate to the interior local points was the same per hundred in barrels or tanks. To New Orleans, where we had the water competition, it was made so much per tank and so much per barrel.

Q. But were these interior points if the rate was the same per barrel or tank—did you then gauge or weigh the tank to ascertain how much it held, or did you charge simply per tank?—A. The tanks were delivered to us by our connections and we accepted their way-bill rates to us.

Q. In those cases were they shipped at a rate per barrel, per tank, or per 100 pounds?—A. To the interior points they were shipped per 100 pounds.

Q. Do you remember signing a printed circular which was sent amongst others to Mr. George Rice raising the rates on oil in barrels shipped South by him?—A. No, sir; I do not remember it. I do not think I ever signed such a document.

Q. Were you present, or if you were not there state whether your representative was, at a meeting held at Louisville, about March 14th last, to discuss the position your roads should take in regard to the then recent decision of the Interstate Commerce Commission?—A. Yes, sir.

Q. Were you present?—A. Yes, sir.

Q. Kindly state who were there present?—A. J. M. Culp, general freight agent of the Louisville and Nashville Railroad; B. F. Mitchell, general freight agent of the Newport News and Mississippi Valley Railroad; H. Collbran, general freight agent of the Queen and Crescent Route; H. Coope, contracting agent of the Ohio and Mississippi at Cincinnati. I believe that was all.

Q. Any others?—A. No, sir.

Q. Was there any representative of the Standard Oil Company there?—A. No, sir.

Q. Did you have any conversation with any one representing the Standard Oil Company?—A. In the meeting?

Q. Or at or about that time on the subject of the rates?—A. I saw a representative of the Standard Oil Company before and after the meeting.

Q. Who was he?—A. Mr. Howard Page.

Q. State whether or not he has general charge of rates on refined oil in that section?—A. I think he has.

Q. Did you discuss that matter with him—the question as to what your rates should be in view of the decision of the Interstate Commerce Commission?—A. No, sir.

Q. Did you have a general conversation with him on the subject?—A. Yes, sir; rates were simply referred to, but I did not ask his recommendation nor did he give it to me.

Q. What was the result of that conference with reference to rates of oil in tanks and on oil in barrels?—A. We decided to make the rates uniform per hundred.

Q. Per 100 pounds?—A. Yes, sir.

Q. Has it been made so?—A. Yes, sir.

Q. You are quite sure of that?—A. Yes, sir.

Q. Now, then, what action was taken by that meeting upon the subject of the amount on the empty tank-cars?—A. It was not really decided at the meeting what each line would do. It was discussed, and afterwards the different lines agreed to pay three-fourths of a cent mileage each way upon the cars going south loaded.

Q. Pay it on each car?—A. Yes, sir; going south loaded with petroleum.

Q. And coming back empty?—A. Or loaded.

Q. You paid three-fourths of a cent?—A. Yes, sir.

Q. Was there anything said or done in that connection about making a charge for carrying empty cars back if they were not loaded?—A. Yes, sir.

Q. Did you take any action upon that subject?—A. There was no agreement made at that meeting. It was simply a conference, and the matter was referred back to the general managers for their recommendation.

Q. What was the result on your own line of any recommendation that you may have sent back?—A. As to what?

Q. As to charging on empty tank-cars going back, provided they were not loaded?—A. We decided to pay mileage each way upon the tank-cars going south loaded with petroleum. The other lines had decided to do that, and we also had to do it, or retire from the business.

Q. And that is now your present practice, is it not?—A. Yes, sir.

Q. What is the distance between Cleveland and New Orleans?—A. It is 550 miles from Cairo to New Orleans. I have not the distance from Cleveland to Cairo.

By the CHAIRMAN:

Q. Where do the cars come on to your line?—A. At Mattoon, when they come direct from Cleveland.

By Mr. GOWEN:

Q. It is 1,000 miles from Cleveland to New Orleans, is it not?—A. (After consulting Mr. Hill.) It is 995 miles from Cleveland to New Orleans.

Q. Well, that is within 5 miles of a thousand?—A. Yes, sir.

Q. Now, do you or not, on any other system of traffic, pay a mileage rate on cars going back empty?—A. We pay it on all cars going back empty.

Q. All cars?—A. All foreign cars.

Q. You pay the same mileage rate on empty cars that you do on loaded cars?—A. Yes, sir.

Q. Do you not know that on that occasion, or subsequent to this meeting, or in consequence of the meeting, probably an arrangement was made by which people who did not submit tank cars to be loaded for coming back were to be charged 3 cents a mile for transporting them back empty?—A. That was discussed, but was never put into effect.

Q. Were you requested by anybody to adopt such a plan?—A. I do not think I was; no, sir.

Q. Who advocated that?—A. I do not know that anybody did. It was a general discussion in the meeting whether or not it would be policy to do it.

Q. Who introduced that?—A. I can not say.

Q. With reference to the volume of traffic on your road, does the largest amount go south or go north—in tonnage?—A. Some seasons of the year the largest goes south and others north.

Q. How is the yearly average?—A. It is largest going south.

Q. How much larger is it going South on an average—10 or 20 per cent?—A. Yes, sir; I should think about 25 per cent.

Q. Now, if anybody else in your service knows better than yourself about the tariff rates on oil which were called for there in tank cars and in barrels over the various lines on your roads, with the times when they were changed, I will relieve you from further questions about it?—A. I believe Mr. Tucker knows more about it than I do.

Q. In the past and prior to this time on the 14th of March when you had this meeting was it customary for you to allow mileage on tank cars?—A. It was, back as far as the fall, I think, of 1887—I beg your pardon, it was 1886, I think.

Q. You allowed that to the owner of the car, did you not?—A. Yes, sir.

Q. The Standard Oil Company own a considerable number of tank cars, do they not?—A. I do not know who owns them.

Q. You know the Union Tank Line?—A. It runs on our road.

Q. That is the principal line on your road?—A. That is one of the lines; I believe they have more cars than any other line.

Q. The bulk of the cars belong to the Union Tank Line?—A. Yes, sir.

Q. Now, this rate of three-fourths of a cent per mile per car running both ways goes to the owner of the car, does it not, for the use of the car?—A. Yes, sir.

Q. If an individual shipper on the line of your road who has no cars of his own, and uses the cars of some other railroad upon which he loads his freight before it reaches your line so that you get the loaded car from some other road, and that cargo goes over your road loaded and comes back empty; in that case am I to understand that the three-fourths of a cent per mile is also allowed on such a car?—A. We allow three-fourths of a cent a mile on all foreign cars loaded or empty.

Q. That three-fourths of a cent a mile in such a case goes to the owner of the car, the railroad company?—A. In every case; yes, sir.

Q. State whether or not when oil is shipped in a tank, assuming the tank not to be full and you are informed of that fact, do you carry that smaller cargo at the same rate as if it had been full?—A. Our present basis is to charge for the full capacity of the tank.

Q. No matter what it contained?—A. Yes, sir.

Q. When did that go into effect?—A. On the 1st of April.

Q. That was about the time the interstate commerce act went into effect?—A. No, sir; it was just after the interstate commerce decision was rendered.

Q. Oh, you mean April 1 of this year?—A. Yes, sir.

Q. Prior to that had it been customary for you to carry oil at a proportion of the same rate for the tank full or half full?—A. We charged for the tank whether it was half full or full.

Q. You did that prior to the interstate commerce decision?—A. Yes, sir.

Q. And continued doing so?—A. Yes, sir.

Q. How often within, say, three years from the time of your meeting in March last, have the rates on oil in tank cars been changed?—A. I do not think there was any change in the rate on tank cars in those three years except what I said from Cleveland to New Orleans. I gave you two rates from Cleveland, \$85 and \$100.

Q. How often during that time were changes made on the rates of

oil carried in barrels?—A. I do not think there were any more changes than there were on oil carried in tanks.

Q. Are you sure of that?—A. Yes, sir.

Q. Was not the rate on barrels advanced in those years?—A. I think the rate of a dollar per barrel from Marietta to New Orleans has been in effect for three or four years.

Q. Without any change?—A. Yes, sir; I do not recall any change.

Q. What was the estimated weight of cargo of a tank car loaded with oil?—A. Not to exceed 40,000 pounds, and the bulk of them weighed a great deal less.

Q. Did you not have a rate fixed on a basis of 24,000 pounds at one time?—A. No, sir; that was frequently the number upon the way-bill, but where the rate is made per tank the way-bill rate is not the actual weight, but is only estimated for tonnage purposes.

Q. The rate was always so much per tank car?—A. Yes, sir.

Mr. FAIRMAN. Mr. Chairman, I represent the Illinois Central Railroad Company as general solicitor, and would like to ask the witness some questions, at the convenience of the committee, of the examination he has gone through.

The CHAIRMAN. The committee have not up to the present time felt it necessary to have the examination protracted in that way. I do not know what the committee may determine upon your request, but the usage has been that the witness has been allowed to make such additional statement at the close of his examination as he felt necessary to supplement his testimony.

By Mr. BUCHANAN:

Q. You testified in response to questions asked you by Mr. Gowen that your charge was the same in the case of each tank car; that it was uniform as to the tank-cars. Have you in the course of business ascertained the average capacity of those tanks?—A. We have ascertained that the average capacity of a tank-car was from 75 to 120 barrels.

Q. But I am speaking of the average, not of the extremes?—A. No, sir.

Q. You are not able to give the committee the average capacity, then, of the tank-cars? You also testified that your rates were higher on barrels than in tanks. Can you give the committee your reason for that difference?—A. They were higher before April 1 of this year, but not now.

Q. I am asking you the reason for that difference. I understand you to say that the difference ceased on April 1?—A. The tank cars are furnished by the shippers at considerable cost. Transportation lines have no investment to make in them, and it is considered a much safer plan to carry oil. There is less danger of fire, and there are other reasons. I consider that it is of much more advantage to the railroad companies to charge a less rate upon tank oil than upon oil in barrels. The barreled oil we generally load to about half the capacity that we do in tanks as to weight. We load 50 to 60 barrels to a car instead of 85 to 120; and when the car is used for coal oil we either have to keep it exclusively in that service or allow it to remain on side tracks for a long time to get the odor out of it, so that we can carry other freights in it. We can not carry coal oil with other goods without damaging and destroying them in a great measure; and, taking it altogether, the freight is much more desirable in tank cars than in barrels, in my opinion.

Q. You spoke also of a three-fourths cent mileage on cars?—A. There is the same mileage on those as on other cars. There is no discrimination.

Q. Is that three-fourths of a cent per ton?—A. It is three-fourths of a cent per car per mile.

Q. You also stated that you charged the same per tank whether the tank be full or half full. In point of actual practice, what proportion of cars are run less than full?—A. Well, I suppose they generally fill them, as they have to pay for them.

Q. I am asking if you have any knowledge on the subject of what proportion of cars are transported that are less than full?—A. No, sir. There is another advantage in tank cars: When oil is shipped in barrels the transportation company has to load and unload it, while in the tank cars the owner loads and unloads it; and they also furnish the tanks for holding the oil at its destination, whereas in many cases in carrying barrels the railroads have to furnish platform or storage room to store the oil in, and if it is put into a storage room it damages the other freight there unless you are very careful. I think it is a much more desirable freight in tank cars than in barrel cars.

By Mr. GOWEN:

Q. Who is Mr. George W. Gillett?—A. He is my assistant.

Q. Will you look at this paper and see if you recall that correspondence [handing paper to witness]?—A. We had nothing to do with that circular; we were not a party to it.

Q. But this letter of Mr. Gillett's speaks of the resolution passed in Saint Louis in May last as having long since been canceled, and adds: "We can quote you nothing better than the regular rate." That refers to some change in the rate at that time, does it not?—A. I have not the whole correspondence here. Mr. Rice had, I think, another letter on that subject.

Q. But you told me in answer to my questions that during these three years there had not been any change in the rate on oil in barrels. State whether, after reading that letter, you think there must not have been some change; for your assistant in that letter speaks of a circular made in May having long since been canceled, and that he could therefore quote nothing better than the regular rate.—A. That circular, if I remember, was never in effect in our lines south of Cairo.

By Mr. SMITH:

Q. Do I understand you to say that you convey empty tank-cars back for three-fourths of a cent per mile?—A. The same as any other foreign car.

Q. Does that cover your expense?—A. We pay mileage both ways on foreign cars.

Q. You pay mileage and also convey them on your lines?—A. Yes, sir.

Q. Is that the way railroads generally do business, pay for handling cars over their lines?—A. Yes, sir; foreign cars.

By Mr. BUCHANAN:

Q. You use those cars for transporting goods over your lines belonging to parties other than yourself, and you pay the mileage rate for the use of those cars?—A. Yes, sir.

Q. And you charge the freightage for the transportation of the goods?—A. Yes, sir.

Q. When you own the cars yourself you would have no mileage to either collect or pay?—A. No, sir.

By Mr. BYNUM:

Q. Do you pay this amount to other individuals who have private cars?—A. Yes, sir; to all alike, except on tank-cars hauling petroleum.

Q. I am not speaking of oil cars, but all cars, say the dressed beef cars, do you pay on those?—A. Yes, sir.

Q. To all shippers having private cars, then, you pay this mileage?—A. The only class of cars we pay no mileage on are tank-cars hauled South empty for loads.

Q. How long have you been paying that mileage?—A. Since the fall of 1886.

Q. I understood you to say that a change had been made since the interstate commerce decision?—A. The rate was changed after that decision, April 1, 1888.

Q. You had not been paying mileage before that?—A. Yes, sir; we had been since the fall of 1886.

Q. The same as since that decision?—A. Yes, sir.

Q. I understood you to say that there had been a change made at the meeting in Louisville?—A. A change in the rates on oil per 100 pounds.

Q. Had you paid before that the same mileage that you have since paid?—A. Yes, sir.

By Mr. SMITH:

Q. Are those rates higher now than they were before that decision?—A. The rate is a little higher now upon oil in tanks and perhaps a little lower upon oil in barrels.

By the CHAIRMAN:

Q. Do I understand, Mr. Morey, that the rates charged upon your roads and under these various tariffs have been the same to all shippers?—A. Yes, sir; so far as I know they have been.

Mr. GOWEN. Except the difference in the method of shipment—there was a different rate in tank-cars and in barrels?

The WITNESS. Yes, sir.

By the CHAIRMAN:

Q. But I understand that difference applied to whoever owned tank-cars?—A. There were several parties who owned tank-cars for the shipment of oil, and they were all treated alike so far as I know.

Witness excused.

TESTIMONY OF HORACE TUCKER.

HORACE TUCKER, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Chicago, Ill.

Q. What is your position?—A. General freight agent of the Illinois Central lines north of the Ohio River.

Q. Have you a reference to the figures so that you can give us the rates on oil in tank-cars as compared with the rates on barrels during the last three or four years?—A. To any given point?

Q. Yes.—A. There have been two changes made since 1885. Since April 1, 1885, until about November 1, 1886, we charged on oil in tanks and in barrels \$2 per barrel.

Q. From where to where?—A. From, say, Cleveland to New Orleans. On November 26 we met a severe competition at Marietta. That forced the rates from Cleveland to New Orleans pretty nearly half.

Q. What were they made ?—A. Eighty-five dollars per tank and \$1 a barrel on barreled oil.

Q. State whether the rate \$85 per tank was a fixed rate charged on all tanks, irrespective of the quantity they contained.—A. The tanks were then supposed to contain 90 barrels.

Q. Answer the question first and explain afterwards.—A. I am trying to answer it.

Q. No; the question was, state whether that charge of so much per tank-car was irrespective of the quantity it contained.—A. It was.

Q. Now, then, make any explanation you please.—A. It was that the Standard oil tank averaged 85 to 90 barrels. Occasionally we would get one that would run over 100 barrels, but those were few and far between.

Q. You didn't get many that would hold 120 barrels ?—A. No, sir.

Q. Are you sure of that ?—A. Yes, sir.

Q. What means, after having adopted a fixed rate irrespective of quantity, did you have to ascertain the capacity of each tank passing over your line ?—A. We had several of them weighed and tested.

Q. Several of them ?—A. Yes, sir.

Q. But these cars were passing daily ?—A. Certain numbers would contain over 100 barrels.

Q. When you found one that contained 120 barrels you charged no more ?—A. I don't think we found that one.

Q. But if you had would you have charged more ?—A. No, sir.

By Mr. BUCHANAN :

Q. How long has your road been engaged in the transportation of oil in tank-cars ?—A. I should say since 1879.

Q. During that period had you had sufficient acquaintance with the business to know from cars actually transported what the average capacity of tank-cars transported over your lines was ? In other words, were you in a position when you fixed the rate of \$85 to know whether or not that would be a fair rate on the average tank ?—A. We did not fix the rate at \$85 until the year 1886. Previous to that time the rate was based on the actual capacity of the tank car.

Q. Why was the rate \$85 fixed ?—A. It was forced upon us by competition from Marietta.

Q. What kind of competition ?—A. Well, the rate in effect, say from Marietta to New Orleans, forced the Cleveland rates.

Q. Who competed with you ?—A. Our Southern competitors.

Q. But not being acquainted with their names I am asking to obtain them.—A. Well, I might say the lines that centered in Marietta; that forced us to adopt the same rates or surrender the business.

By Mr. SMITH :

Q. Did you have any river competition ?—A. River competition on barrel oil, but not on tank oil.

Q. Did you have any river competition from Marietta ?—A. Yes, sir; but the boats dislike to take oil on account of its permeating the vessels and spoiling their trade.

Q. Did they not convey oil in barges ?—A. Not that I know of, except that they put oil into the hold, and that was liable to damage them.

Q. Damage the barge ?—A. Yes, sir.

Q. How could that happen ?—A. It happened several times on the Mississippi to our knowledge.

By Mr. GOWEN:

Q. I understand you to say that in an inland line of transportation by rail, when at the end of your line you meet a competition with water that requires it, you feel in such a case a necessity of changing your rates even if it involved the necessity of making the rates on barrels and tanks nearly the same?—A. That you have to do, or entirely surrender the business.

Q. You found that a necessity?—A. Yes, sir.

Q. Why would you make a difference due to competition by water that you would not make from competition by rail?—A. We meet both competitions, whether by river and rail or all rail.

Q. But you see what I am driving at. Can you see any reason, as a railroad man, why, if competition by natural navigation involves a necessity of making rates equal on your road to all kinds of shippers of that article— A. To that competitive point.

Q. Why inland competition by another railroad or any other competition should not involve the necessity of giving both competitors the same rate?—A. That we have done.

Q. I am not examining you with reference to what you did.—A. I am not the party; I am not the initial line, but we tell our neighbors to go ahead.

Q. But I want your answer as a railroad man and as an expert, if there is any reason why, if competition by natural navigation involves the necessity of making the same rate to two competitors on the railroad line, why any other competition should not give any other competitors just the same rates on the inland line?—A. That would force a lower rate.

Q. Suppose two individuals—now I am not trying to draw anything out to hurt you, but I have a railroad expert on the stand and I wish to get some information from him. I deem that you are doing what ought to be done on all your other lines except that line to the south. Now, then, if John Smith and Peter Jones are shipping oil, one in tank cars and the other barrels, from Cleveland to New Orleans, and the rate has been less in tank barrels than in cars. We will say that at New Orleans the competition is developed by reason of the navigation of the Gulf or the Mississippi, which, in your judgment, makes it necessary for you to make both of those rates which theretofore have been different, identical, in order that you may meet that competition by both classes of shipment. That being the case, can you give, as a railroad man, any reason why, when an inland line which has not the competition by river or gulf but has the competition by rail, the same amount of competition should not induce the inland line to make both rates the same?—A. Not the same; there should be a comparative difference between tank and barrel cars.

Q. Not if competition forces the reduction. If the same general competition forces the reduction in one case, would you not make the rates the same in other cases?—A. In justice to all shippers, I should say yes.

Q. Can you see any good reason why that should not be so?—A. I can see no good, valid reason.

Q. If you make a difference on your inland rate which, in consequence of competition, enabled the man who shipped in tanks to meet that competition and excluded the man who shipped by barrels from meeting that competition, you would consider that you were not doing justice to the shippers, wouldn't you?—A. It has always been conceded by all

lines that there should be a vast difference between hauling in tank cars and by barrels.

Q. But suppose your competitor who makes the competition fixed the same rate in tanks and barrels?—A. If we were to meet that we would have to fix an equal rate for the shipper.

Q. For both?—A. Yes, sir; we should have to. We should take that barrel oil, and if any of our competitors shipped barrel oil we should equalize the rate as far as we could.

Q. I will not discuss the question whether barrel oil and tank oil should be carried at different rates, because that was decided by the Interstate Commerce Commission. You propose to obey that, do you not?—A. Yes, sir; we are obeying it.

By Mr. BUCHANAN:

Q. I gather from your last answer that you do give equal rates?—A. Yes, sir; we do.

Witness excused.

TESTIMONY OF JABEZ A. BOSTWICK.

JABEZ A. BOSTWICK, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. I reside in New York.

Q. What is your business?—A. I am now in the railroad business.

Q. You were at one time connected with the Standard Oil Company of Ohio, were you not?—A. Yes, sir.

Q. In what capacity?—A. As stockholder.

Q. Were you an officer?—A. Yes, sir; I was an officer; I was a trustee or director.

Q. You were, I think, once one of the trustees of the Standard Oil Trust, were you not?—A. Yes, sir.

Q. How long have you been in the oil business?—A. About fifteen years or a little over.

Q. Were you an officer of the American Transfer Company?—A. Yes, sir.

Q. When was that organized?—A. I can not tell you the date of the organization.

Q. Was it twelve or fifteen years ago?—A. I think fully fifteen years.

Q. What was its capital?—A. One hundred thousand dollars.

Q. Had it any bonded debts outstanding?—A. It was a private matter entirely of my own. No, sir; it had no debt.

Q. How many miles of pipe did it own; do you remember?—A. That I do not remember.

Q. Roughly; you know more about it than I do or anybody else—give it as nearly as you can.—A. It is pretty hard for me to say. You know a pipe-line has a great many ramifications.

Q. One hundred miles or 50?—A. I should think perhaps 50 or 75 miles.

Q. It was practically a property which you owned and used in the name of a company simply for convenience?—A. Yes, sir.

Q. And passed that over to the Standard Oil Company of Ohio; did you not?—A. I sold it out, but I can not tell you whether to the Standard Oil Company or not without referring to the books.

Q. But it got into the ownership of the Standard Oil Company?—A. Yes, sir; it got into the pipe-line ownership.

Q. It got into the ownership of the pipe-line, which the Standard Oil Company controls?—A. Yes, sir.

Witness excused.

TESTIMONY OF J. D. ROCKEFELLER.

J. D. ROCKEFELLER, sworn and examined.

By Mr. GOWEN :

Q. I will ask you a very few questions, because I have had Mr. Flagler, Mr. Archbold, and Mr. Brewster on the stand and do not propose to ask you the same questions?—A. I should be very grateful to the committee if I can be excused as soon as possible.

Q. You were president of the Standard Oil Company of Ohio?—A. Yes, sir.

Q. And now of the Standard Oil Trust?—A. Yes, sir.

Q. You have been connected with the oil business for a great many years?—A. Yes, sir.

Q. Do you remember the South Improvement Company of 1872?—A. I remember there was such a company.

Q. Can you tell us who were the owners of that—what interests each of you gentlemen had in it?—A. I do not know that I can tell you all the owners. I can give you nearly all, if not all.

Q. I want the names particularly of gentlemen who either now or in the past have been interested with you gentlemen who were in the South Improvement Company?—A. I think they were O. T. Waring, W. P. Logan, John Logan, W. G. Warden, O. H. Payne, H. M. Flagler, William Rockefeller, J. A. Bostwick, and myself. I would like to state that this is from recollection and I may have mentioned the names of one or two gentlemen who were not in it.

Q. Was Mr. Bushnell in it?—A. I could not state from memory; I should think not.

Q. Was Mr. Waring connected with the Standard Oil Company at the time of the South Improvement Company?—A. He has never been.

Q. Were the two Logans connected with the Standard Oil Company?—A. No, sir; nor have they ever been.

Q. Mr. Warden has been intimately connected with that company and was one of the trustees, was he not?—A. Yes, sir.

Q. Mr. Payne also was one of the trustees originally, was he not?—A. Yes, sir.

Q. Mr. Flagler is one yet?—A. Yes, sir.

Q. Is William Rockefeller one of the trustees?—A. Yes, sir.

Q. He still retains his position?—A. Yes, sir.

Q. Mr. Bostwick was once one of the trustees?—A. Yes, sir.

Q. He has retired?—A. Yes, sir.

Q. You are the president, are you not?—A. I am.

Q. Was Charles Lockhart in the Standard Oil Company's service in any way or in its ownership?—A. Yes, sir.

Q. In which; of Ohio?—A. Of Pittsburgh.

Q. Now, can you tell me the number of barrels of crude oil that were refined in the year 1887 by all the interests which now constitute or are connected with the Standard Oil Trust?—A. I can not.

Q. Who can give us that information?—A. I can have that forwarded to you.

Q. Will you do so?—A. I will, with pleasure; yes, sir. May I send it through my counsel, Mr. Dodd? Unfortunately Mr. Dodd is called to New York on account of the serious illness of his son.

Mr. GOWEN. Mr. Flagg is here.

The WITNESS. Very well; I will send it to him.

Q. When does your fiscal year end in all these establishments; have you a fixed time?—A. I think, January 1st.

Q. If it should not happen to end on the 1st of January you can give it to me for your last fiscal year?—A. I think it ends on the 1st of January.

Q. Since last January you have secured interest in some other refineries, have you not, that you did not control last January?—A. Since the 1st of January of what year?

Q. Eighteen hundred and eighty-eight.—A. I do not recall at the moment.

Q. Logan, Emery & Weaver have testified that you bought them out.—A. I do not remember the date of that purchase. I have not it in my mind.

Q. I will ask you, then, to add at the bottom of that statement, after refreshing your recollection, a statement of the capital of all refineries which you may have secured interest in or control of since the 1st of January, 1888. Is not the principal factor in regulating the price of crude oil in other parts of the world than America, the oil which comes from the Caspian Sea; is not that the principal factor?—A. That is the largest product—what we call the Russian product.

Q. Is not that the only principal product that you have to contend with?—A. That is the large percentage of it.

Q. There is an Austrian product also, is there not?—A. Yes, sir.

Q. That does not interfere much?—A. To a very limited extent. I am not able to state now the amount of the production of the Austrian oil; that has been a factor for a number of years; but I do not remember how much they produce.

Q. State whether you or any of your interests have any control of the Russian fields or ownership in them?—A. No, sir.

Q. Have you been negotiating for them?—A. No, sir.

Q. Has not one of the gentlemen who was connected with your establishment been appointed consul on the Black Sea at some port—at Batoum?—A. Not that I am aware of.

Q. Have you any agents abroad located at that point?—A. I do not recall that we have. Our agents abroad would travel.

Q. Who has charge of that department in your company; that is, the department of investigating and looking after foreign competition?—A. Our people who sell; any of our salesmen.

Q. But who at home has general charge of that department?—A. It would not come to us. It rests with the gentlemen who sell the oil in those countries.

Q. But you have an interest in the sale of the oil?—A. I mean our American oil.

Q. You have agents abroad selling your oils on your own account?—A. Not often. We prefer to sell the oil in this country. Sometimes in this Russian competition we have to do anything that we can to secure the trade.

Q. I just want to get at the manner in which the business is done. What percentage of your product of refined oil do you send here and get rid of at once without the necessity of following it up further?—A. I can not answer that.

Q. Who does know among you gentlemen; would Mr. Archbold or Mr. Brewster know that?—A. That could be ascertained in our office in New York. We sell just as little abroad as possible.

Q. The bulk of the product you sell here at once?—A. We try to.

Q. To people who ship it abroad on their own account?—A. Yes, sir; we try to.

Q. State from your knowledge of this business whether if it were not for European competition in the same article there is any other illuminating substance known in the world that could compete with refined petroleum even if refined petroleum were 30, 40, or 50 cents a gallon?—A. I do not know where the line of the competition would come. We think our American petroleum is a very cheap light. It is our pleasure to try to make it so. I do not know where the line would be drawn between it and other illuminants.

Q. For instance, other illuminating substances are either animal or vegetable oils, are they not?—A. Yes, sir.

Q. There are whale oil and rape-seed oil, or oils of similar character?—A. Well, they get oil from the shales, you know.

Q. Then there are mineral oils produced from shales?—A. Yes, sir.

Q. And from some coal slates?—A. Yes, sir.

Q. At what price for petroleum do you think that mineral or vegetable oils could be produced in competition with it?—A. I could not answer that.

Q. You certainly must know more than anybody else in this room about that.—A. I could not answer that. I do not know at what point the two would come together.

Q. The price of whale oil is about \$1.80 or \$1.60 per gallon, is it not?—A. I do not know the price of whale oil.

Q. Within your experience how high has been the price—we will take the New York price—how high has been the price per gallon on refined oil?—A. I could not state from recollection. I could get that.

Q. Has it been as high as 40 or 50 cents per gallon?—A. Yes, sir.

Q. Up to that time did it meet with any competition that reduced it in price except from mineral oils of the same character?—A. I could not answer that. I do not know to what extent the competition might have been checked by the price of 40 or 50 cents. That was a number of years ago, and I was not sufficiently conversant with the other oils, in which I had no dealings whatever.

Q. I suppose you can safely answer this question: At 25 cents as the wholesale price of refined oil in New York there is no other product except petroleum which could interfere with it, is there?—A. I do not know at what price gas can be manufactured; gas is cheaper than it was. I do not know at what price our petroleum would stop and other illuminants take its place.

Q. But leaving out gas, there are no illuminating oils known which at 25 cents a gallon for petroleum could compete with it?—A. I do not know about other oils.

Q. How about the Scotch shales?—A. I do not know what the Scotch people get for their shale oil.

Q. Will you get the price lists for us?—A. Yes, sir; I can send them to you.

Mr. GOWEN. We asked two questions of Mr. Archbold and Mr. Brewster, and both of them declined to answer until the will of the committee was known. Now if you, Mr. Rockefeller, will tell us without waiting for the action of the committee, I will ask you those questions; but if you will say that you will not answer them I will not ask you.—A.

If you please, Mr. Gowen, I prefer not to answer those questions which they declined to answer.

By Mr. BYNUM:

Q. Does the Standard Oil Company or Trust own any other property except the oil property?—A. That is the general line of property.

Q. I know that is the general line of property, but do you own any other property?—A. There are some other things that are collateral to the business that come in.

Q. What other properties do you own?—A. The glue and acid and such things, and mechanical devices and appliances that have come in in connection with our business—barrel-making and so on.

Q. Only incidents to the oil business?—A. Yes, sir.

Q. Do you own any interest in natural-gas fields in Ohio?—A. Some of those interests we have in the trust or its connections.

Q. Have you any interest in the natural-gas fields in Indiana?—A. I am unable to state whether we have or not. I am not connected with that department in a way that would enable me to know.

Q. Who could answer that question?—A. Mr. Brewster could have answered, perhaps not specifically as to parcels of land, but generally. It would be easy to ascertain that.

Q. Is there any one here that can answer that?—A. I presume not.

Q. Could you furnish a statement in a general way, I do not care specifically, as to what interest the trust has in Indiana now, either in stocks of any natural-gas company or in leases upon lands?—A. I think I can easily do so; yes, sir. I will send it to you through Mr. Flagg.

By Mr. BUCHANAN:

Q. You speak of some cognate interests; I think you said glue and acid making, etc.—A. To some extent we manufacture around our refineries those things we use ourselves.

Q. But included in the trust, is there the capital stock of any corporation devoted exclusively to the production of glue and its kindred products?—A. No, sir; that comes in in the regular manufacturing plant.

Q. As I understand it your trust is composed of a number of trustees who have issued certificates, representing that trust, in exchange for the certificates of capital stock surrendered to you by a number of different corporations. Is my understanding correct?—A. Yes, sir.

Q. Included in those corporations, whose stock has thus been surrendered and exchanged for certificates of the Standard Oil Trust, is there any corporation whose exclusive business it is to be engaged in the manufacture of glue and its kindred products?—A. No, sir. The glue making and barrel making would come in in the same corporation; for example, the Standard Oil Company of Ohio would manufacture its own glue to a certain extent, and its barrels or other things that were collateral to the oil industry.

Q. Then such product of these corporations is consumed entirely by or within the corporation aggregating the combination?—A. I suppose substantially so.

Q. I wish to know accurately, as nearly as you can give me, whether there are any of the products of these corporations engaged in the manufacture of these articles thrown upon the general market?—A. I should say not. The object of having those products is to utilize them in our own manufacture.

Q. Can you speak with any degree of confidence as to whether any

of this product is thrown upon the general market?—A. It is my impression that it is absorbed within our own business.

Q. Testimony has been given before the committee indicating the existence of what is known as the Cotton-Seed Oil Trust. Are you one of the trustees in that trust?—A. I am not; I have no connection with it, and never have had.

By Mr. SMITH:

Q. Are you in the iron business, that is to say, the Trust?—A. Not at all; no, sir.

Q. Do not you manufacture the hooping that you require for your barrels?—A. We do not.

Q. Are you engaged or interested in any soap manufactory in New York?—A. No, sir.

Q. Have you a line of pipe for natural gas to Buffalo?—A. There is such a line of pipe to Buffalo.

Q. Do you supply customers all alike there?—A. I suppose so; I am not familiar with the details.

Q. Well, Mr. Rockefeller, in getting testimony here we find among you officials that there is a very great shortness of memory in not knowing this or that or the other, and yet the testimony goes to show that you are doing an immense business, and there seems to be nobody that knows anything positively about it.—A. If you will allow me, it would be quite impossible for me to be familiar with the details of all of those interests that are represented in the trust. My belief is that their prices are the same. I have no knowledge on that point. I should be quite happy to give it if I had it.

Q. Does the trust keep books?—A. No, sir; that business would be done by each company.

Q. How do you equalize matters between yourselves?—A. I do not understand, Mr. Smith.

Q. If every one of these corporations go it alone, what reason is there to have a trust?—A. They do manage their own business independently.

Q. They report to the trust, do they not?—A. If they make any profit they turn it in to the trustees.

Q. Do I understand, then, that every trustee carries a small memorandum-book and jots it down for himself?—A. No, sir.

Q. Do you keep books in the ordinary course of business?—A. These corporations all keep books, and they keep their own accounts.

Q. I understand that, but I mean the Trust itself.—A. No, sir; we have no system of book-keeping.

Q. That seems to be a new thing in business, that a company can do an enormous business without books; and if this committee could discover where these books are kept, if there are any, we would not bother you gentlemen much.—A. All these gentlemen keep careful books, Mr. Smith; they keep careful accounts, each for himself; each concern keeps its own set of books carefully.

Q. Mr. Rockefeller, we have the testimony here that the trust has a line of pipe on the right of way of the Chicago and Atlantic Railway from the Lima field to Chicago. Is there no account kept of that—the contract, etc.?—A. Do you mean to say that the trust has it?

Q. The trust seems to own it.

The CHAIRMAN. You are mistaken in the testimony, Mr. Smith; the testimony is that the National Transit Company owns that.

The WITNESS. Yes, sir; yes, they have that.

By Mr. BUCHANAN:

Q. How many of these trustees are there in this Standard Oil Trust?—A. There are nine.

Q. And they receive from any of the subordinate corporations earning them the dividends?—A. They do; yes, sir.

Q. And when those dividends are received they apportion them among the holders of the trust certificates?—A. They do; yes, sir.

Q. Who actually handles that money?—A. The treasurer of the trust.

Q. Who is he?—A. Mr. Brewster.

Q. Does he keep books of those transactions?—A. He has a record, to know what money comes in.

Q. Call it record, or books, or whatever is most appropriate. Does he keep a record of receipts from those different corporations and payments made to holders of certificates?—A. He must have some record. I do not know just what his system of book-keeping is. There must be some record; yes, sir.

Q. You are the president of the nine trustees?—A. Yes, sir.

Q. You have never seen those books?—A. I do not think I have ever seen those books.

Q. Has any member of that nine, to your knowledge, ever seen those books?—A. I do not know that they have. If such accounts are kept, Mr. Brewster must have seen them. They must have been made by his subordinates.

Q. How long is it since the formation of this trust?—A. The trust was formed in January, 1882.

Q. Has the treasurer during that time ever rendered any account or report to the trustees?—A. Yes, sir.

Q. In writing?—A. Yes, sir.

Q. Did he at any time submit his books for inspection?—A. I do not know that he submitted his books to the trustees for inspection.

Q. Or to any of the trustees?—A. I may state that any accounts or books are examined by regular accountants. In connection with any business we have, there are accountants who examine all papers and accounts. There are many of such accountants.

Q. Do these trustees have stated meetings?—A. They do.

Q. When?—A. About once in a quarter.

Q. Where?—A. In New York.

Q. Is any record kept of the transactions of those meeting?—A. Yes, sir.

Q. By whom?—A. By the secretary.

Q. Who is he?—A. Mr. Flagler, he is the secretary.

Q. Where is that book of records kept?—A. That is kept in New York.

Q. At what place in New York?—A. At 26 Broadway, I suppose. Mr. Flagler would be the custodian of it.

By Mr. GOWEN:

Q. Can you tell us the relative rate at which certificates of the Standard Oil Trust were issued against the shares of other companies that were taken in?—A. They were issued for value.

Q. But, for instance, take the Standard Oil Company of Ohio; what was the par value of its stock?—A. I could not tell that; I do not remember.

Q. What was the par value of a share of stock in the Standard Oil Company of Ohio?—A. At the time? That I could not tell.

Q. Can not you tell whether it was \$50 or \$100?—A. I think it was above par.

Q. But what was the par?—A. I did not understand your question before. The par was \$100.

Q. The nominal par?—A. Yes, sir.

Q. Now, the nominal par of the certificate of the Standard Oil Trust is \$100, is it not?—A. Yes, sir.

Q. And what was issued as representing \$100 of par is now selling at about \$160, according to Mr. Flagler's testimony?—A. In a small way; no large amounts could be sold.

Q. How many shares of the certificates of the Standard Oil Trust were issued for one share of the stock of the Standard Oil Company of Ohio?—A. I could not tell that from memory. I can not remember about those different companies.

Q. Were the shares of the Standard Oil Company of Ohio taken into the trust at a higher rate than the par value?—A. It was according to the properties possessed, and according to whatever the possession of that company was at that time. It was probably more than par at that time; considerably more, I should say.

Q. Did you ascertain the value that you should give for these shares of the different corporations which were taken into your trust by their market value at the time or by appraisement of the property?—A. By valuation of their properties.

Q. By appraisement?—A. Yes, sir.

Q. Therefore you have some record at some place that will show exactly the relative amount at which the certificates of the Standard Oil Trust were exchanged for the various shares of these different companies, have you not?—A. I suppose there is such a record.

Q. Can you furnish us with a list showing in all of the cases of the corporations who are mentioned in your trust agreement which is here in evidence—can you give us the amount of Standard Oil certificates that were issued against them?—A. I suppose I could get that.

Q. Will you do that when you send me the other statement?—A. Is that one of the things that you asked Mr. Archbold and Mr. Brewster, and which they declined to give?

Q. No, sir; that is not one of the things. What we want now is a statement of the amount of the certificates of Standard Oil Trust issued in respect of or against the shares of the other various corporations that were taken into the trust, showing the amount of each.—A. I will do what I can with that.

Q. Will you send that with the others?—A. Yes, sir.

By Mr. BUCHANAN:

Q. There was a question asked by Mr. Gowen. Do you remember, after this appraisement was taken of the value of the property of each corporation, what the aggregate was?—A. About \$70,000,000.

Q. What was the issue of trust certificates?—A. Seventy millions. They are \$100 a share.

Q. So, then, you mean to be understood as saying that the issue in the aggregate of trust certificates was equal or about equal to the aggregate of the value of property held by the subordinate corporations?—A. I do.

By Mr. BYNUM:

Q. What branch of your corporation or trust has charge of these natural-gas companies?—A. It is in connection with the pipe system; it would be in that division.

HON. HENRY BACON,
Chairman of Committee on Manufactures :

DEAR SIR: Your committee requested Messrs. Rockefeller, Archbold, and Flagler to furnish you with certain information. The information desired of Mr. Flagler is contained in his letter of this date. Mr. Archbold is absent, and I have been requested to furnish to you the information desired of him and Mr. Rockefeller.

1. The number of barrels of crude oil, refined or otherwise, dealt in and consumed in 1887 by companies whose stocks were held wholly or in part by the Standard Oil Trust was 19,837,531 barrels of 42 gallons each.

2. The refining capacity of refineries acquired by the Standard interests since January 1, 1888, is 2,000 barrels per day.

3. We have been unable to obtain any price-list of Scotch shale oils.

4. Neither the Standard Oil Trust nor any of the companies whose stocks it holds has any interest in the Indiana gas fields. Some interests were taken in gas fields near Indianapolis, but the enterprise was abandoned and all the interests acquired were sold to other parties last fall.

5. I have directed to be sent you by express a schedule of tank cars as issued by the Union Tank Line. I believe this covers all the information asked for, except one question asked of Mr. Rockefeller, to wit:

Can you furnish us with a list showing in all of the cases of corporations mentioned in your trust agreement the amount of Standard Oil Trust certificates issued against them?

Mr. Rockefeller asked if this was one of the questions asked of Messrs. Archbold and Brewster, and being told by Mr. Gowen it was not, said he would send the information.

While this question was not in its exact form put to Mr. Archbold it was in substance proposed to him when he was asked the amount of certificates issued for stock of the Acme Company.

This he declined to answer, and in doing so was, as I understand, sustained by the committee. Mr. Rockefeller should not, therefore, be held to a promise made under a mistake of that nature.

As his counsel I object to his furnishing the information, upon the ground that it is a purely private matter, and can be of no possible service in shaping any future legislation upon the subject before the committee. I further call the committee's attention to the fact that it has passed upon this subject, not only in the case of Mr. Archbold's refusal to answer, but also when the witnesses in the sugar companies' case declined to give similar information. I have therefore deemed it my duty as counsel to instruct Mr. Rockefeller to decline to answer that question, and submit to the judgment of the committee whether it is a proper question to be insisted upon. The fact is already testified by Mr. Rockefeller that the property of each corporation was appraised and the certificates were issued upon the basis of said appraised values.

Yours truly,

S. C. T. DODD.

MAY 23, 1888.

ROOM OF THE COMMITTEE ON MANUFACTURES,
 HOUSE OF REPRESENTATIVES U. S.,
 Washington, D. C., May 25, 1888.

MR. S. C. T. DODD:

MY DEAR SIR: Your favor of the 23d inst. has been received and contents noted. In regard to the question to which Mr. Rockefeller, under your advice, has declined to answer, I am directed by the committee to say that the import of the question as quoted by you is somewhat different from what it was understood to call for by the committee and myself. The committee reached a conclusion in the "sugar-trust investigation," and in the ruling upon the question put to Mr. Archbold, that it was not of importance for the purpose of legislation that they should have specifically the amount of trust certificates against the certificates of capital stock delivered to the trustees, but that it was important that they should have specific information, first, that the properties of the various corporations whose stocks were turned over to the trustees were actually and fairly appraised; second, that they should know whether the amount of the trust certificates issued to the stockholders of each corporation were exactly equal in amount to the appraised value of the tangible property of the corporation or was less or more, and if more, what in addition to the tangible property was included to make up the difference; and, lastly, whether the appraised value of the property of the various corporations were exactly equal or less or more to their capital stock. This information was furnished by the "sugar trust" people without specifying any amount in any case, and it was accepted by the committee as a sufficient reply to its inquiry upon this subject. I am instructed by the committee to inform you that a similar reply from Mr. Rockefeller will be

deemed by it a satisfactory response to the question put to him, and which he promised to answer. Please advise me whether he will furnish this information.

I am, very truly, yours,

HENRY BACON,
Chairman.

26 BROADWAY, NEW YORK, May 31, 1888.

DEAR SIR: In answer to your request for further information contained in your letter of 25th instant, I respectfully reply, in behalf of Mr. Rockefeller.

1. The properties of the various corporations whose stocks were turned over to the trustees were actually and fairly appraised.

2. The amount of the trust certificates issued to the stockholders of each corporation was in excess of the appraised value of the tangible property of the various corporations, intangible property, such as good-will, patents, trade-marks, etc., being included in the valuation.

3. The appraised value of the property of the various corporations was in some cases greater than the nominal capital stock of said corporations, and in other cases less than the nominal capital.

Yours truly,

S. C. T. DODD.

Hon. HENRY BACON,
Chairman of Committee on Manufactures.

TESTIMONY OF CLEMENT A. GRISCOM.

CLEMENT A. GRISCOM, affirmed and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. What is your business?—A. Shipping and commission merchant.

Q. You are president, are you not, of the National Transit Company?—A. Yes, sir.

Q. How long have you been connected with that company?—A. I think since the formation of the company, in 1881 or 1882.

Q. Under what charter was that formed; under a charter obtained from the State of Pennsylvania?—A. Under a charter obtained from the State of Pennsylvania.

Q. A special charter?—A. A special charter.

Q. Do you remember when it was obtained?—A. I can not answer that.

Q. Prior to 1874?—A. Yes, sir.

Q. Do you know what the charter had been used for up to the time it was taken?—A. I think it was a charter sold at public sale by the State.

Q. What was the name of the company when it was chartered; do you remember?—A. I have not thought of it for years. I believe it was the Southern Security Company, but I would not like to be considered as accurate.

Q. Had that Southern Security Company engaged in other business at one time, if you know?—A. It was a charter sold for taxes by the State and purchased by us.

Q. It must have been engaged in some business?—A. That is a fair inference.

Q. The charter was sold by the State for taxes, therefore the State must have had a lien against it for some accrued taxes on something it did?—A. That is a fair inference.

Q. Or on its capital stock?—A. Yes, sir.

Q. How long prior to its use by the National Transit Company was it so sold?—A. I could easily ascertain that for you.

Q. Will you send it?—A. Yes, sir.

Q. What is the total capital of the National Transit Company?—A. That I can not answer off-hand. I will send that to you.

Q. It is somewhere in the neighborhood of \$25,000,000, is it not?—A. Yes, sir; twenty-five or twenty-six millions.

Q. Of that amount it has been testified here that the Standard Oil Trust controls 94 per cent.—A. It is about that.

Q. Will you tell us who own the remaining 6 per cent.?—A. I most respectfully decline to answer that question under the advice of counsel.

The CHAIRMAN. The matter will be taken up in executive session.

Q. You are a director of the Pennsylvania Railroad Company, are you not?—A. Yes, sir.

Q. How long have you been that?—A. About three years.

Q. You were not a director, then, at the time of the formation of this company?—A. No, sir.

TESTIMONY OF JOHN LLOYD, Jr.

JOHN LLOYD, Jr., sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Lynchburgh.

Q. Virginia?—A. Yes, sir.

Q. You originally lived in Philadelphia?—A. Yes, sir.

Q. How long since you left Philadelphia?—A. Last May.

Q. Were you in business with Mr. Malcolm Lloyd?—A. Yes, sir.

Q. Is he your brother?—A. Yes, sir.

Q. Were you one of the firm?—A. No, sir.

Q. You were in what business with him?—A. I was in the refining of petroleum.

Q. From what years?—A. I do not know; I think about eighteen years altogether; seventeen or eighteen.

Q. Up to the period at which you left Philadelphia?—A. Yes, sir.

Q. Now, how did you receive your oils at that time?—A. Over the Pennsylvania Railroad, and previous to that over the Empire Line.

Q. But the Empire Line was a transporting line upon the Pennsylvania Railroad?—A. Yes, sir.

Q. Therefore you received practically altogether by means of the railroad lines of the Pennsylvania Company?—A. Yes, sir; I believe so.

Q. Now, can you tell us what the rates you paid on crude oil were to your refinery?—A. No, sir; I can not think of that.

Q. Did you receive rebates?—A. Yes, sir.

Q. On crude oil?—A. Yes, sir.

Q. How much for a barrel?—A. I can not remember that.

Q. As near as you can?—A. About 10 or 15 cents; something of that kind.

Q. Did you ever get more than that?—A. I was not in possession of any books or accounts. I can not tell from memory. I have not been in the oil business for going on two years now.

Q. Up to what time did you receive this drawback of 10 or 15 cents?—A. I got it two years ago. I have not been in the business since.

Q. Have you any means of ascertaining what the amounts were?—A. No, sir.

Q. What did you do with your refined oil?—A. We exported it and sold it to the home trade.

Q. Did you ship any of it inland to the home trade by rail?—A. Yes, sir.

Q. State whether you had any rebates on refined oil shipped inland to the home trade.—A. I do not remember of any.

Q. Did you ever ship refined oil to New York for the purpose of having it shipped there to the foreign trade, or did you ship it to the foreign trade exclusively from Philadelphia?—A. We always loaded at our wharf in Philadelphia.

Q. Then you have no means of ascertaining the amount of rebates that you received on crude oil?—A. No, sir.

Q. But you received those rebates up to the time you left Philadelphia?—A. I do not remember the time, but within a few months probably.

Q. Can you remember the highest rate per barrel that you received?—A. No, sir; I can not remember that.

TESTIMONY OF FRANK HARRIOT.

FRANK HARRIOT, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Baltimore.

Q. What is your business?—A. General traffic manager of the Baltimore and Ohio road.

Q. How long have you been in that position?—A. About two months.

Q. What position had you before that?—A. General freight agent.

Q. For how long?—A. Six years.

Q. Can you remember in 1886 an application made to you by Mr. George Rice for shipments over some of the southern connections of your road, of oil?—A. I can remember a general application for various rates found there.

Q. The latter part of 1886?—A. Yes; I should think it was about that time.

Q. December, 1886?—A. I can not fix the month exactly.

Q. Do you remember naming a rate for him in connection with your southern connections, giving him a rate for shipment of oil?—A. I think there was a rate made, but I can not remember it.

Q. You remember the fact?—A. Yes, sir.

Q. Shipments were commenced, were they not?—A. Yes, sir; I think they were.

Q. State whether or not within a week or two you did not withdraw the rates [exhibiting to witness a paper]. That purports to be a copy, but it may revive your recollection.—A. Yes, sir; I remember that.

Q. You remember the fact?—A. Yes, sir.

Q. That you believe to be a copy?—A. Yes, sir.

Q. (Reading:)

DECEMBER 15, 1886.

GEORGE RICE, *Ohio Oil Works*:

See your letter 13th. I find that for the present we will have to withdraw rates on oil to southern points, as the various lines in interest will not carry them.

FRANK HARRIOT,

General Freight Agent, Baltimore and Ohio Railroad.

You remember that?—A. Yes, sir.

Q. Now tell us by and upon whose suggestion or at the instance of what lines you withdrew those rates.—A. If I remember right, the southern roads objected to the continuance of these rates on the score that the oil was not unloaded, the charges were not paid, and the cars were kept standing. Now, I know nothing of the facts myself, but I am perfectly willing to send you that correspondence, if you wish it.

Q. But this telegram was written on December 15, 1886, was it not?—A. I don't know; you have the date.

Q. [Showing witness the telegram.] Just look and see whether it was not December 15.—A. Yes, sir.

Q. And was it not only within a week or two of that that the rate had been fixed?—A. It had been only a short time. I think he had been shipping more than a week.

Q. He shipped from Marietta, Ohio, to what point; do you remember?—A. No, sir.

Q. Where upon your lines did that oil first reach you?—A. Parkersburgh, and left us at Strasburgh.

Q. With whose line did you connect at Strasburgh?—A. The Virginia Midland, or what is known as the Richmond and Danville system.

Q. Now, can you send to this committee a statement showing the date at which your rates were given to Mr. Rice, and also the correspondence with these other companies that resulted in your notifying him that these rates had to be given up?—A. I think I can.

Q. Will you do that?—A. Yes, sir; I think I have all the correspondence. We should have, at least.

Q. Will you send that to-morrow?—A. I will try to do so to-morrow. I will have to look back two years among a lot of old files, and I may not be able to do it to-morrow.

Q. But within a day or two?—A. Yes, sir.

Q. [Showing witness a paper.] Just look and see if that will recall anything further to your recollection upon this subject.—A. I will send you all the correspondence. I remember some of the circumstances connected with it, but not all of them. I would like to give you the whole of it.

OHIO OIL WORKS,
Marietta, Ohio, December 13, 1886.

C. E. WAYS,
A. G. F. A., Baltimore, Md.:

Your rates on oil from here to southern points via Strasburgh, per your letter of November 15, was given at so much per 100 pounds. I accepted your rates and requested the same to be issued. The C. W. and B. gives its agent here orders to bill all such oil by the barrel, at an estimated weight of 400 pounds. Now, the C. W. and B. has always heretofore billed at 380 pounds per barrel, while the L. and N. average it 375 pounds per barrel, and no other road exceeds 380 pounds. I desire to know if this was done by your orders, and if you are not satisfied with taking the same general average as carried by all other lines (which does not exceed 380 pounds). I have just returned from the South, and made several sales on basis of 380 pounds, and as the oil market is very low it about cuts off what little profit there was.

Please advise.

Yours,

GEO. RICE.

OHIO OIL WORKS,
Marietta, Ohio, December 15, 1886.

C. E. WAYS,
A. G. F. A., Baltimore, Md.:

Inclosed please find dispatch received this day from my agent at Chattanooga, Tenn., in regard to car of oil started from here December 1 (67 barrels) 22,800 pounds (billed at 380 pounds per barrel); and also one car sent to Birmingham, at 380 pounds, since which they are billed and averaged at 400 pounds per barrel (and at a barrel rate), figured on this basis.

The rate given me by you November 15, of 30 cents per hundred, and on 22,800 pounds as above, comes to \$68.40 as against \$132 per this dispatch. I have refused to pay this excess of freight, for I hold a through bill of lading therefor, which is in accordance of our agreement.

This is a very great annoyance and delay to me, and the oil will remain there in the car subject to your orders and risk. How could this have been done when it was shipped on a through bill of lading, and who is to blame for this?

Please answer by return mail.

Truly, yours,

GEO. RICE.

[Telegram.]

BALTIMORE, MD., *December 15, 1886.*GEO. RICE,
Ohio Oil Works, Marietta, Ohio :

See your letter 13th. I find that for the present we will have to withdraw rates on oil to southern points, as the various lines in interest will not carry them out.

F. HARRIOTT.

[Telegram.]

MARIETTA, OHIO, *December 16, 1886.*FRANK HARRIOTT,
G. F. A., B. & O., Baltimore :

What particular lines refuse to carry out previous agreement? Also state present rate to Chattanooga.

GEO. RICE.

[Telegram.]

BALTIMORE, MD., *December 20, 1886.*GEO. RICE,
Marietta, Ohio :

Can do nothing at present with oil rates from Marietta to the South, and if we can not get along better than we have during last two weeks we will never put them in.

F. HARRIOTT.

OHIO OIL WORKS,
*Marietta, Ohio, December 20, 1886.*F. HARRIOTT,
G. F. A., B. & O. R. R., Baltimore, Md. :

I inclose copy of dispatches, which speak for themselves. Yours of to-day I don't understand as to this part: "If we can't get along any better than we have during the last two weeks, we will never put them in." This sudden abrogation of rates is pretty tough within two weeks after I had commenced to ship (December 1) per rates given me November 15, and which you countermanded December 15, because as you say the various lines in interest will not carry them out. Now the Piedmont Air line wire you to continue the oil rate and they run to Atlanta and Birmingham. If any other line objects will you be so kind as to inform me? This sudden termination of rates has caused me great annoyance and trouble, and, with cars in readiness to leave, after making arrangements in the South to send my oil there, supposing I would have a due and reasonable notice of this change, is inexcusable, unless better explained. Can you do so?

Yours,

GEO. RICE.

[Telegram.]

BALTIMORE, MD., *December 21, 1886.*GEO. RICE, *Marietta, Ohio :*

The reasons are shortage of cars, the impossibility of getting cars returned from the South, the overcharges, and the low rates of our company. This is all against the traffic.

F. HARRIOTT.

[Telegram.]

RICHMOND, VA., *December 21, 1886.*FRANK HARRIOTT, *Baltimore, Md. :*

Rice telegraphs you are unwilling to continue the oil rates from Marietta. Please explain why.

SOL HAAS.

[Telegram.]

BALTIMORE, MD., December 22, 1886.

SOL HAAS,

T. M. A. R. E. Va. & C., Richmond, Va.:

Your dispatch regard to oil. We can not get cars to do the local traffic of our line. We have a great number of cars South now and the rate is much lower on the oil than on plenty of other traffic offering, for which reasons I suspended the rates.

F. HARRIOTT.

[Telegram.]

MARIETTA, OHIO, December 23, 1886.

F. HARRIOTT,

G. F. A., B. & O. R. R., Baltimore, Md.

I sold Atlanta two cars, based on your rates; one has gone forward. Will you protect the other? Advise me and agent here.

GEO. RICE.

[Telegram.]

BALTIMORE, MD., December 23, 1886.

GEORGE RICE, *Marietta, Ohio.:*

Have asked Mr. Fraser to instruct his agent at Marietta to take the one car for Atlanta.

F. HARRIOTT.

OHIO OIL WORKS,

Marietta, Ohio, December 31, 1886.

C. E. WAYS,

A. G. F. A., Baltimore, Md.:

On November 15 last you gave me through rates to southern points on oil in car lots from Marietta. I accepted said rates and requested you to issue same. I commenced to ship or started the first car from here December 1, and on the 8th the fourth car was started, and, with oil sold ahead and shipments getting ready to send to agencies, comes an arbitrary telegram from Mr. Harriott, dated December 15, in which he says: "For the present we will have to withdraw rates on oil to southern points, as the various lines in interest will not carry them out." On receipt of this telegram I immediately wired Sol Haas, traffic manager of the Richmond and Danville system (the principal connecting line into the South), the contents of above dispatch, and asked him why he objected. On December 18 Haas responded as follows: "Have requested Mr. Harriott to continue the oil rate; overcharge will be promptly refunded." This shows that "the various lines in interest" had not refused to carry out the through rates as given me by you November 15. On December 21 Mr. Harriott wires me other reasons as follows:

"The reasons are shortage of cars, the impossibility of getting cars returned from the South, the overcharges, and the low rates for our company. This is all against the traffic."

The overcharges spoken of here certainly could not affect you, for you received all that you agreed to do, or was entitled to, in the first place, while I was the sufferer, and compelled to pay \$132 on the first car of 60 barrels into Chattanooga, as against a bill of lading I hold of \$72 (or \$60 overcharge), almost double. The next car was charged \$120 as against \$72, or \$48 overcharge. Is this not a fine state of affairs? And in connection with my being shut off so arbitrarily on a telegraphic notice, without any notice ahead whatever, is very significant, and I call upon you for an explanation for this summary and outrageous treatment, which can not be stigmatized too strongly. I await your answer.

Truly, yours,

GEO. RICE.

BALTIMORE, MD., January 5, 1887.

GEORGE RICE, Esq.,
Marietta, Ohio.:

DEAR SIR: See your favor December 31, to Mr. C. E. Ways, regarding oil traffic in the South. Mr. Ways was not to blame for the withdrawal of the rates. After looking at the traffic and finding that the freight was overcharged (which you yourself admit, you saying that you hold bill of lading), I was confident that the Baltimore and Ohio Railroad Company was going to be charged with you on account of these overcharges.

You will admit that the rate is a very low one so far as Baltimore and Ohio proportion is concerned, and then the long detention to our cars in the South made it necessary for us to take some action regarding the traffic. I think you generally sell your oil in the highest market you can reach. We generally wish to carry the highest paying freight we can obtain; and when I saw cars leaving our road and not returning for thirty to sixty days, while we at the same time were so short of equipment that we could not take care of our local traffic, I gave the order to stop taking your traffic. This is no more than I have done on western traffic of other kinds over our road. It is the same as I do on New England traffic via Globe line, having refused to handle a single car to go into New England, as they were detained there the same as in the South. At 12 o'clock noon, to-day, the Richmond and Danville Railroad Company's system had 217 of our cars. This is the explanation which you say is due you, but I can not see the outrageous treatment to which you refer.

Yours, truly,

F. HARRIOTT, G. F. A.

TESTIMONY OF GEORGE M. TAYLOR.

GEORGE M. TAYLOR, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. What is your age?

Mr. SCOTT. Mr. Chairman, if I am permitted at this stage of your investigation, when an officer of the Pennsylvania Railroad Company is called, I desire, with all respect to your committee, to raise the question of the right of the committee to examine the witnesses by counsel.

The CHAIRMAN. Your appearance here is as counsel for the witness?

Mr. SCOTT. I am instructed by the company of which he is an officer to appear for him and raise that question.

The CHAIRMAN. Do you desire to say anything upon that subject, because the committee will go into executive session to dispose of the question?

Mr. SCOTT. I do desire, Mr. Chairman, to say something on that subject. That is the reason I put the inquiry whether I will be permitted to do so.

The CHAIRMAN. We will hear now, with the consent of the committee, your suggestions upon that subject.

Mr. SCOTT. I desire in the outset, Mr. Chairman, in what I have to say, to express most decidedly the feeling that I am treading upon somewhat delicate ground before the committee in raising a question about the propriety of their past action.

I wish, however, as I have already done, to disavow all feeling of disrespect to the committee, and especially to disavow anything in the form of personal feeling with reference to the counsel himself who is conducting your investigation. The question which I raise is one which I think, upon a moment's reflection, you will see is a very important one to companies standing in the position in which the Pennsylvania Railroad Company does stand, in view of the numerous investigations that are now being ordered by Congress, in view of existing legislation in the State which created it, and in view of Congressional legislation which has already made it subject to another tribunal. It is not from any captious spirit that this question is raised.

I must go back a little to show you, if I can, the impropriety of a Congressional investigation of this character by counsel. It is one of the fundamental rules of parliamentary bodies—one I take it with which all the members of this committee are familiar, for it is to be found in every copy of Jefferson's Manual—that when a subject is committed to a committee for investigation it is committed to those who are favorable to the investigation. The language of the old cases in which this question was raised is that a child is never to be put out to a nurse who is unfriendly to its life or its existence.

Now, I called your attention, when I had the honor of being before your committee before, to the fact that when this committee was raised, members upon the floor of the House were especially solicitous that there should be committed to it an investigation not only of the Standard Oil Company, but of the Anthracite Coal Combination of Pennsylvania.

Mr. BUCHANAN. You desire, of course, to be entirely accurate. This committee is not a special committee. It is a regular committee of the House. I suppose you knew when this matter was intrusted to it.

Mr. SCOTT. I am obliged for the correction. I was aware that it was the standing Committee on Manufactures of the House, and not a special committee raised for this investigation. But it was to this standing committee that the special resolution directing a committee on trusts was committed, and the remark which the honorable member of the committee (Mr. Buchanan) makes, I think, will only illustrate more strongly the propriety of the position to which I wish to call your attention.

Had it been proposed to add members to the committee, or to raise a special committee under the parliamentary law, any member of the House who arose and expressed himself in opposition to the investigation of any one of the trusts that were enumerated or that were referred to in the debate would have been disqualified from being appointed upon that committee, from sitting upon it, and the old authorities go to the extent of saying that it would have been his duty to rise and ask to be excused from serving upon it.

Now, Mr. Chairman, in the kindest sense in the world I wish to say of Mr. Gowen, a distinguished member of the Pennsylvania bar, that he was disqualified from serving as a member of that committee, and if he was I wish to call your attention to the impropriety of submitting to his guidance in the investigations that are intrusted to you. I shall not undertake to characterize Mr. Gowen's connection with the anthracite coal combination of Pennsylvania, one of the subjects committed to you. That was done in such strong and decided language, by a friend of the honorable gentleman himself, one whose capacity for wielding the English language would have enabled him to do justice to that subject far more than I—when that distinguished gentleman was before a committee of the senate of Pennsylvania, and Mr. Gowen was there as the representative of the Reading Railroad Company—I mean the late eminent and honorable Jeremiah S. Black, whom I am glad—

The CHAIRMAN. Now, Mr. Scott, you will pardon the interruption, but the question which you have suggested here is the competency of this committee to employ counsel with regard to this investigation.

Mr. SCOTT. Yes, sir.

The CHAIRMAN. I desire you to understand, and that was expressed to you before, that Mr. Gowen's connection with this committee as counsel is restricted to the examination into the so-called Standard Oil Trust, and to submit to your judgment that in discussing the question of the competency of the committee to employ counsel for that purpose it is neither likely to aid us in reaching a correct conclusion, nor can it be agreeable to us that you should review Mr. Gowen's connections with other matters about which this committee has not sought his aid or advice.

Mr. SCOTT. I appreciate fully the statement which you make in endeavoring to show how consistent it is for Mr. Gowen to be the adviser of this committee if confined to one special subject which has been committed to you.

The CHAIRMAN. That is the purpose for which he is employed and the only purpose to which your objection now applies.

Mr. SCOTT. I am treating the whole subject committed to you as being involved in the propriety of Mr. Gowen's appearing as the counsel of this committee, and of course, if the committee deem that it is proper to submit themselves to the guidance, in one aspect of this examination, of a gentleman who in another has been characterized in the manner in which I was going to quote it by Judge Black, that is a question for this committee.

Mr. BRECKINRIDGE. We are dealing now with the Standard Oil Trust, and not with the anthracite coal combination, and it is not in order for him to take up a subject that the committee has not under consideration, and possibly may never have under consideration. It seems to me very obvious that if so loose a line of discussion were permitted that our investigation would be spread out all over creation without ever reaching anything in a determinate manner.

The CHAIRMAN. It seems to me that the discussion has gone beyond the point that was called for by the objection, and I think it becomes proper for me to offer that suggestion to you with deference to your years and experience.

Mr. SCOTT. I appreciated before the question to which I refer under embarrassment, as I say, in addressing as a tribunal the gentleman's client, the committee. Therefore, if you say I shall not go on with that subject, I submit at once; but before I pass from that and go to the next point I do desire to say, and I say it in all kindness, that as you are now investigating the business of the Standard Oil Trust in its effects upon the community, if my information is correct—and if it is not I shall receive in the kindest mode a correction from Mr. Gowen—Mr. Gowen is also the counsel of the Tide-Water Pipe Line Company, and that company is in a pool with this National Transit Company, which you are investigating.

I pass from that, and I go now to his position with reference to the Standard Oil Company, and I do it with great reluctance, sir. It is a duty, because the interests of the company which I represent are, we think, very largely involved in this question of propriety.

The CHAIRMAN. I think I will have to ask you to suspend a moment. I desire to have the opinion of my associates upon this committee, in executive session, as to how far this discussion shall go before you proceed. It is obvious that the objection which you make to the employment of counsel by the committee is an objection which develops itself into an objection to the particular person employed by the committee.

Mr. SCOTT. No, sir; if you will permit me—pardon me; my original objection, if I was not fortunate enough to state it clearly, was that there is not authority enough in the committee to employ any counsel.

The CHAIRMAN. That is my understanding, and the discussion is now proceeding, as I apprehend it, into a discussion of the question whether the particular person who has been employed as counsel by the committee is a proper person. Whether the committee will hear you upon that question or not is a subject which I think they had better determine in advance in executive session.

Mr. SCOTT. The reason I desire to say that is that I wish to illustrate, by the position of the counsel, the policy of the general rule I stated, that no committee, without the express authority of Congress, has the right to employ counsel.

The CHAIRMAN. With the approval of my associates upon the com-

mittee we will go into executive session to ascertain how far this discussion will go.

Mr. BUCHANAN. As I understand, Mr. Scott was just reaching that point, the point in the case as to our power to employ any counsel.

The CHAIRMAN. The point which Mr. Scott was upon, his last sentence, was whether Mr. Gowen was a proper person to be employed as counsel, because of his relations to the Standard Oil Trust, and as it had reached that point it seemed to me that we had reached a point where the discussion in executive session would be profitable. If that is the opinion of the majority of the committee we will take that order.

Mr. SMITH. I think, if my memory serves me right, Mr. Scott also hinted at the idea that we had no power, unless we had direct instruction from the House, to employ counsel.

Mr. BUCHANAN. That is his position, as I understand it.

Mr. SCOTT. I would prefer, if it be desired, to consult the elementary law upon that subject in Jefferson's Manual. I presume you are all familiar with it.

The CHAIRMAN. We would be glad to take the page on which it appears before we go into executive session.

Mr. BUCHANAN. My point was, before we went into executive session, that we should hear Mr. Scott upon our power to employ counsel at all.

Mr. SCOTT. I await the order of the committee upon that subject. It is certainly not agreeable to me, but it is imposed upon me. (To the chairman.) Is it your desire that I withdraw?

The CHAIRMAN. I expressed to the committee the view which I entertain upon it, that the discussion has branched off from the question of the power of this committee to employ counsel at all into a question of the propriety with which the committee made its choice in selecting the present counsel. Whether that question shall be discussed before the committee or not is one about which I prefer the committee shall deliberate in executive session.

Mr. GOWEN. I think before going into executive session you ought to hear me in answer to the allegation of Mr. Scott.

The CHAIRMAN. I think we will dispose of that at the same time, if you please.

Mr. GOWEN. I wish simply to say that any statement that Mr. Scott made or insinuated that I am in any manner professionally connected with anybody that makes it improper that I should act here, is absolutely, totally, and maliciously untrue.

Mr. SCOTT. Is it untrue that you are the counsel for the Tide-Water Pipe-Line Company? Answer me that.

Mr. GOWEN. I was the counsel for it, and offered to return them my fee if it was in any manner supposed that my engagement with it prevented my being employed in a public duty against the Standard Oil Company, and no fee that I ever received from the Tide-Water Pipe Line Company led me to do anything except to be hostile to the Standard Oil Company, to prevent them getting control of that organization.

EXECUTIVE SESSION.

(After executive session.)

The CHAIRMAN. The committee in executive session have had under consideration the objection made by counsel to the examination of this witness by the selected counsel of the committee, and have concluded that the objection should be overruled.

Before proceeding the committee further desires to enter upon the record the decision upon the two points left undecided in the testimony

of the witnesses called on Saturday, and have concluded that they will not require answers to be made giving the amounts of the individual holdings of trust certificates issued by the Standard Oil Trust, and will not require answers to the question calling for a disclosure of the names of the holders of shares in other companies, the stock of which belongs only in part to the Standard Oil Trust; and under that ruling the two witnesses whose attendance was required here for to-morrow morning, Mr. Archbold and Mr. Brewster, are excused.

Mr. Taylor was recalled to the stand.

Mr. SCOTT. As I stated to you, and I wish to state it now publicly, having been informed that certain papers were wanted, those of them that were required and which were in the possession of the secretary of the Pennsylvania Railroad I have with me and propose to produce. I will further state that the witnesses are here to be submitted to the examination of the members of the committee; but I insist on the objection that the committee has not the power to examine through counsel. I shall instruct the witnesses accordingly, and if you desire that question to be made I hope it will be made in such a manner as to bring it to a direct issue at once.

GEORGE M. TAYLOR (Recalled).

By Mr. GOWEN:

Q. Where do you reside?—A. In Philadelphia.

Q. What is your business?—A. I am auditor of freight receipts of the Pennsylvania Railroad Company.

Q. How long have you been in that position?—A. As nearly as I can recollect, since 1872 or 1873, perhaps 1874; I am not certain.

Q. Mr. Taylor, you were subpoenaed, among other things, to produce certain papers, and among them an agreement between the Pennsylvania Railroad Company and the South Improvement Company, made on the 18th of January, 1872. Have you that paper with you?—A. No, sir.

Mr. SCOTT. So far as I have control here of the witness I announce to the committee, as I have already done, that my belief is that counsel has not the right to interrogate him any more than any outside party, and my instruction to him is to answer the inquiry of any of you gentlemen of the committee, and I instruct him not to answer otherwise, and so far as I have any right to submit my opinion here, it is that he ought not to answer.

By Mr. GOWEN:

Q. My question to you was whether you had that agreement?—A. Under Mr. Scott's direction I can not answer that question.

Q. You are on the witness stand now and must answer one way or the other. Do you decline to answer?—A. By direction of Mr. Scott I decline to answer the question.

Q. Have you any copy of the agreement between the Pennsylvania Railroad Company and the producers of petroleum represented by Benjamin B. Campbell, made about the end of the year 1879 or 1880?—A. By direction of counsel I decline to answer.

Q. Will you produce that paper, Mr. Taylor?

Mr. SCOTT. I have that paper.

The WITNESS. I have not the paper to produce, and I could not do it any way; but I am under the direction of counsel, as I say.

Q. Do you know where it is?—A. No, sir.

Q. Have you not just heard that it is in the possession of counsel for your company, in this room?—A. Not that I know of.

Q. Then, Mr. Taylor, can you tell us whether any rebates on refined petroleum have been paid to anybody by the Pennsylvania Railroad within the last six years?—A. I can only say, as I did in reply to the other question, that by advice of counsel I can not answer.

Q. Do you say you decline to answer?—A. By advice of counsel; yes, sir.

The CHAIRMAN. This seems to me to bring into exercise a power that is so unusual that I can not feel that any personal sense of dignity or pride of opinion should interfere with the orderly disposition of this case, and I will therefore ask you myself, Mr. Taylor, whether you have in your possession or know of the existence of the contract between the Pennsylvania Railroad Company and the South Improvement Company.

The WITNESS. No, sir; I have never heard of it until I came here, or until I got the subpoena asking me to produce it.

Q. Do you have, or do you know of the existence of this other contract between the Pennsylvania Railroad Company and Benjamin B. Campbell and others?—A. No, sir.

Q. That is not in your possession?—A. It is not, and I never saw it.

Q. And you have not the contract with the National Transit Company?—A. I have not, but I understood it would be here; therefore I did not bring a copy with me.

Q. What is your position in the Pennsylvania Company?—A. Auditor of freight receipts.

Q. Does that position require you to know, and do you know, of the freight rates upon that company's lines, with relation to petroleum?—A. Incidentally, yes, sir; in the examination of the manifests.

Q. Will you state, please, whether at the present time there is any difference in the tariff rates for transportation of refined petroleum on the lines of your company in favor of or against any one of its shippers?—A. If there is I do not know of it.

Q. Is the rate uniform to all shippers over that road, so far as you know?—A. So far as I know; yes, sir.

Q. On refined petroleum?—A. On all kinds of freight.

Witness excused.

TESTIMONY OF JOHN S. WILSON.

JOHN S. WILSON sworn and examined.

By the CHAIRMAN:

Q. You are one of the officers or employes of the Pennsylvania Railroad Company?—A. Yes, sir; I am general traffic agent.

Q. Where do you reside?—A. In Philadelphia.

Q. Is that where your office is, too?—A. Yes, sir.

Q. In the discharge of your duties in that capacity are you familiar with the freight rates over that road?—A. Yes, sir.

Q. And with the tariff rates made to all persons?—A. Yes, sir; I make them.

Q. Will you state, please, whether at the present time there is any discrimination in rates between the shippers of refined oil over that road or any of its branches?—A. There is not.

Q. Do you know of the existence of this contract between the South Improvement Company and the Pennsylvania Railroad Company?—A. I do not.

Q. When did your connection with the Pennsylvania Railroad begin?—A. September 15, 1882.

Q. Are any of the papers called for by the subpoena which was served upon you in your possession?—A. No, sir.

Q. Or under your control?—A. No, sir.

Witness excused.

The CHAIRMAN. Now, Mr. Scott, if you will, we will be glad to have those papers.

Mr. SCOTT. At your call, Mr. Chairman, I will say that I directed inquiry to be made for all papers named in your subpoena, and I was informed by the secretary that he had no contract with the South Improvement Company. He told me he had the agreement with B. B. Campbell, representing the producers, and I have with me a full copy of it, with the indorsements upon it, which I place at the service of the committee. The original contract I, of course, do not wish to take from our files, but if you desire to have it compared you, of course, can do so.

The CHAIRMAN. It is produced as the copy of the agreement?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. The original being on file with the company?

Mr. SCOTT. Yes, sir.

The copy of the agreement referred to, and produced by Mr. Scott, is as follows:

It having been alleged by persons engaged in the production and shipping of petroleum and the products of petroleum that discrimination has been practiced in the rates of freight and in the distribution of cars by the Pennsylvania Railroad Company in such manner as to be injurious to the business of such producers, and bills in equity having been filed, in the name of the Commonwealth, in the western district of the supreme court of the State of Pennsylvania for the purpose of restraining such discrimination.

It is now hereby agreed by B. B. Campbell, representing the producers at whose instance such bills have been filed, and the Pennsylvania Railroad Company that he, the said Campbell, will request the governor and attorney-general to agree that the said bills shall be withdrawn, and upon such withdrawal, the Pennsylvania Railroad Company doth hereby agree that it will enter into written contracts with the said B. B. Campbell, representing said producers, and with all such producers as shall, within sixty days after the date hereof, signify their assent to this agreement by signature to the same or duplicate thereof, which written contracts shall stipulate that the Pennsylvania Railroad Company will make known to all shippers of petroleum and its products all the rates of freight intended to be charged to all shippers upon such petroleum and its products; that the said Pennsylvania Railroad Company will not pay or allow to any shippers of petroleum or its products any rebate, drawback, or commission upon the shipments of such petroleum or its products different from or greater than that which shall be paid to any other person shipping or offering to ship like quantity; and that any discrimination that may be made in favor of shippers of the larger quantities shall be reasonable, and shall, upon demand made, be communicated to all persons shipping, or who are now or may be hereafter in the business and desire to ship petroleum or its products. That the Pennsylvania Railroad Company further agrees that upon its own road and upon any other road or roads upon which it shall furnish cars and engage in the business of a common carrier of petroleum or its products it will not practice any discrimination in the distribution of its cars, but will make fair apportionments in such distribution among all applicants for cars having actually in their custody and ready for shipment at the time of their application the petroleum or its products for the shipment of which they ask facilities.

PHILADELPHIA, February 12, 1880.

B. B. CAMPBELL.

Attest as to signature of B. B. Campbell:

JOHN H. HAMPTON.

THE PENNSYLVANIA RAILROAD CO.
By THOMAS A. SCOTT, *President*.

Attest as to signature of Thomas A. Scott:

JOHN SCOTT.

Mr. SCOTT. The contract with the National Transit Company you told me you did not require to be produced.

The CHAIRMAN. The substance of it was proved from officers of the company.

Mr. SCOTT. The remaining call was for contracts with the Standard Oil Company or companies affiliated with it with reference to rates. I submitted your call to the secretary, and he informed me that there were no such contracts on file; so that is a full answer to the requisition of the subpoena.

Mr. BUCHANAN. Mr. Scott, I understood you to say to the committee awhile ago that the secretary of your company had not been subpoenaed.

Mr. SCOTT. When your decision was announced to the meeting in executive session I stated that when that subpoena was served it was served upon three officers—the general freight agent, the auditor of freight receipts, and the auditor of disbursements—and I found that none of them had these papers; but knowing that the secretary was the proper custodian of such papers, I sent the subpoenas to him and requested him to furnish me with all the papers he had on file called for in the subpoena. I did that for the purpose of facilitating, not delaying, that investigation.

The CHAIRMAN. The secretary was subpoenaed not for this morning, but for one day last week.

Mr. SCOTT. In answer to that I will say that the secretary was summoned by subpoena, as to which the statement was made here last week that it was not authorized by the committee.

The CHAIRMAN. My recollection certainly is that no criticism was made of that subpoena by any member of the committee, and that there was no suggestion that it was not authorized.

Mr. BLAIR. Mr. Chairman, may I have the attention of the committee for a moment?

The CHAIRMAN. Yes, sir.

Mr. BLAIR. May it please the committee, I appear here on behalf of the Missouri Railroad Company. Several of its officials have been summoned to appear here to-day. They are not here, and can not be, for the reason that they are already under subpoena from the civil court of Missouri, the circuit court of the United States. There is another reason, because the subpoena calls for so many papers that I am informed it will take a month to prepare them.

I suppose, in the first place, it is not important which witnesses are here so long as they are informed upon the subjects of your investigation; and second, I suppose there are some special points which the committee wishes to inquire into, and that does not require that all our papers, covering two or three years, should be produced.

The CHAIRMAN. You can do as other gentlemen similarly situated have done, confer with the counsel of the committee and learn from him just what is required, and there will be no difficulty in reaching a conclusion that will be satisfactory to both of you, I am sure.

The committee then adjourned until 10 o'clock, Tuesday, May 1, 1888.

WASHINGTON, D. C., May 1, 1888.

The committee met at 10 o'clock a. m. Present: Mr. Bynum (in the chair), Mr. Smith, Mr. Buchanan, Mr. McKinney, Mr. Grimes, and Mr. Crouse.

Mr. GOWEN. I understand that Mr. Baxter, who is counsel for the

Louisville and Nashville Railroad, intended to make an application this morning to the committee upon the subject of the necessity of his witnesses attending, although those witnesses have been subpoenaed and were directed to be here on Monday. But at the suggestion of one of the gentlemen of the House, Mr. Butler, I agreed, with Mr. Bacon's consent, that if they were here this morning it would answer. Now, I would like to know if Mr. J. M. Culp is here.

(Neither Mr. Culp nor the other witnesses of the Louisville and Nashville road being present, Mr. Gowen proceeded:)

Mr. Baxter, counsel for the Louisville and Nashville road, gave me notice yesterday that he had prepared an argument, or a petition, which he said he would give me a copy of, but I have not yet received it, raising this question before the committee—I understand he intends to take the position that under the Kilbourne case Congress has no right to compel the attendance of these witnesses or the production of the papers. If he intends to raise that question I would like it to be introduced before the examination of the witnesses.

Mr. BYNUM. I should like very much to hear that question before the full committee. The chairman will be here at 12 o'clock.

Mr. SMITH. If the gentleman is not here to produce these papers, this committee is not obliged to wait.

Mr. BYNUM. Mr. Baxter was here yesterday and desired to present the matter then, but did not have an opportunity on account of other matters.

Mr. SMITH. I understand that, but he was notified, as well as the rest of us, that we would be here at 10 o'clock, and that he should be here and have his papers all ready to present them.

TESTIMONY OF A. J. MASSETT.

A. J. MASSETT, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside?—A. Cincinnati.

Q. What is your business?—A. Steam-boat and forwarding agent, general freight agent of the Southern Transportation Line, running from Saint Louis to New Orleans.

Q. That line is engaged in the transportation of freight upon the Ohio and Mississippi Rivers, is it not?—A. Yes, sir.

Q. And on other rivers as well?—A. We connect with lines that radiate from the Mississippi River, and also from the Ohio River, and also connect with steamers running from Pittsburgh and Wheeling to Cincinnati.

Q. Do you make through bills of lading with all these people?—A. Yes, sir.

Q. Now state what you know upon the subject of the transportation of oil by river lines, and especially in respect to the interference you have had by the efforts of the Standard Oil Company, or through agents of theirs, to prevent it, and what has been done and what the matter resulted in. You can go on in your own way.—A. Most of the carrying of oil by our steamers has been done for outside independent refineries.

Q. Those not in the Standard Trust?—A. Not in the Standard Trust or Standard pool. We most generally took their oils at Cincinnati, brought by the Wheeling packets mostly from Marietta, Parkersburgh,

Q. Have you not just heard that it is in the possession of counsel for your company, in this room?—A. Not that I know of.

Q. Then, Mr. Taylor, can you tell us whether any rebates on refined petroleum have been paid to anybody by the Pennsylvania Railroad within the last six years?—A. I can only say, as I did in reply to the other question, that by advice of counsel I can not answer.

Q. Do you say you decline to answer?—A. By advice of counsel; yes, sir.

The CHAIRMAN. This seems to me to bring into exercise a power that is so unusual that I can not feel that any personal sense of dignity or pride of opinion should interfere with the orderly disposition of this case, and I will therefore ask you myself, Mr. Taylor, whether you have in your possession or know of the existence of the contract between the Pennsylvania Railroad Company and the South Improvement Company.

The WITNESS. No, sir; I have never heard of it until I came here, or until I got the subpoena asking me to produce it.

Q. Do you have, or do you know of the existence of this other contract between the Pennsylvania Railroad Company and Benjamin B. Campbell and others?—A. No, sir.

Q. That is not in your possession?—A. It is not, and I never saw it.

Q. And you have not the contract with the National Transit Company?—A. I have not, but I understood it would be here; therefore I did not bring a copy with me.

Q. What is your position in the Pennsylvania Company?—A. Auditor of freight receipts.

Q. Does that position require you to know, and do you know, of the freight rates upon that company's lines, with relation to petroleum?—A. Incidentally, yes, sir; in the examination of the manifests.

Q. Will you state, please, whether at the present time there is any difference in the tariff rates for transportation of refined petroleum on the lines of your company in favor of or against any one of its shippers?—A. If there is I do not know of it.

Q. Is the rate uniform to all shippers over that road, so far as you know?—A. So far as I know; yes, sir.

Q. On refined petroleum?—A. On all kinds of freight.

Witness excused.

TESTIMONY OF JOHN S. WILSON.

JOHN S. WILSON sworn and examined.

By the CHAIRMAN:

Q. You are one of the officers or employes of the Pennsylvania Railroad Company?—A. Yes, sir; I am general traffic agent.

Q. Where do you reside?—A. In Philadelphia.

Q. Is that where your office is, too?—A. Yes, sir.

Q. In the discharge of your duties in that capacity are you familiar with the freight rates over that road?—A. Yes, sir.

Q. And with the tariff rates made to all persons?—A. Yes, sir; I make them.

Q. Will you state, please, whether at the present time there is any discrimination in rates between the shippers of refined oil over that road or any of its branches?—A. There is not.

Q. Do you know of the existence of this contract between the South Improvement Company and the Pennsylvania Railroad Company?—A. Not.

Q. When did your connection with the Pennsylvania Railroad begin?—A. September 15, 1882.

Q. Are any of the papers called for by the subpoena which was served upon you in your possession?—A. No, sir.

Q. Or under your control?—A. No, sir.

Witness excused.

The CHAIRMAN. Now, Mr. Scott, if you will, we will be glad to have those papers.

Mr. SCOTT. At your call, Mr. Chairman, I will say that I directed inquiry to be made for all papers named in your subpoena, and I was informed by the secretary that he had no contract with the South Improvement Company. He told me he had the agreement with B. B. Campbell, representing the producers, and I have with me a full copy of it, with the indorsements upon it, which I place at the service of the committee. The original contract I, of course, do not wish to take from our files, but if you desire to have it compared you, of course, can do so.

The CHAIRMAN. It is produced as the copy of the agreement?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. The original being on file with the company?

Mr. SCOTT. Yes, sir.

The copy of the agreement referred to, and produced by Mr. Scott, is as follows:

It having been alleged by persons engaged in the production and shipping of petroleum and the products of petroleum that discrimination has been practiced in the rates of freight and in the distribution of cars by the Pennsylvania Railroad Company in such manner as to be injurious to the business of such producers, and bills in equity having been filed, in the name of the Commonwealth, in the western district of the supreme court of the State of Pennsylvania for the purpose of restraining such discrimination.

It is now hereby agreed by B. B. Campbell, representing the producers at whose instance such bills have been filed, and the Pennsylvania Railroad Company that he, the said Campbell, will request the governor and attorney-general to agree that the said bills shall be withdrawn, and upon such withdrawal, the Pennsylvania Railroad Company doth hereby agree that it will enter into written contracts with the said B. B. Campbell, representing said producers, and with all such producers as shall, within sixty days after the date hereof, signify their assent to this agreement by signature to the same or duplicate thereof, which written contracts shall stipulate that the Pennsylvania Railroad Company will make known to all shippers of petroleum and its products all the rates of freight intended to be charged to all shippers upon such petroleum and its products; that the said Pennsylvania Railroad Company will not pay or allow to any shippers of petroleum or its products any rebate, drawback, or commission upon the shipments of such petroleum or its products different from or greater than that which shall be paid to any other person shipping or offering to ship like quantity; and that any discrimination that may be made in favor of shippers of the larger quantities shall be reasonable, and shall, upon demand made, be communicated to all persons shipping, or who are now or may be hereafter in the business and desire to ship petroleum or its products. That the Pennsylvania Railroad Company further agrees that upon its own road and upon any other road or roads upon which it shall furnish cars and engage in the business of a common carrier of petroleum or its products it will not practice any discrimination in the distribution of its cars, but will make fair apportionments in such distribution among all applicants for cars having actually in their custody and ready for shipment at the time of their application the petroleum or its products for the shipment of which they ask facilities.

PHILADELPHIA, February 12, 1880.

B. B. CAMPBELL.

Attest as to signature of B. B. Campbell:

JOHN H. HAMPTON.

THE PENNSYLVANIA RAILROAD CO.

By THOMAS A. SCOTT, President.

Attest as to signature of Thomas A. Scott:

JOHN SCOTT.

Mr. SCOTT. The contract with the National Transit Company you told me you did not require to be produced.

The CHAIRMAN. The substance of it was proved from officers of the company.

Mr. SCOTT. The remaining call was for contracts with the Standard Oil Company or companies affiliated with it with reference to rates. I submitted your call to the secretary, and he informed me that there were no such contracts on file; so that is a full answer to the requisition of the subpoena.

Mr. BUCHANAN. Mr. Scott, I understood you to say to the committee awhile ago that the secretary of your company had not been subpoenaed.

Mr. SCOTT. When your decision was announced to the meeting in executive session I stated that when that subpoena was served it was served upon three officers—the general freight agent, the auditor of freight receipts, and the auditor of disbursements—and I found that none of them had those papers; but knowing that the secretary was the proper custodian of such papers, I sent the subpoenas to him and requested him to furnish me with all the papers he had on file called for in the subpoena. I did that for the purpose of facilitating, not delaying, that investigation.

The CHAIRMAN. The secretary was subpoenaed not for this morning, but for one day last week.

Mr. SCOTT. In answer to that I will say that the secretary was summoned by subpoena, as to which the statement was made here last week that it was not authorized by the committee.

The CHAIRMAN. My recollection certainly is that no criticism was made of that subpoena by any member of the committee, and that there was no suggestion that it was not authorized.

Mr. BLAIR. Mr. Chairman, may I have the attention of the committee for a moment?

The CHAIRMAN. Yes, sir.

Mr. BLAIR. May it please the committee, I appear here on behalf of the Missouri Railroad Company. Several of its officials have been summoned to appear here to-day. They are not here, and can not be, for the reason that they are already under subpoena from the civil court of Missouri, the circuit court of the United States. There is another reason, because the subpoena calls for so many papers that I am informed it will take a month to prepare them.

I suppose, in the first place, it is not important which witnesses are here so long as they are informed upon the subjects of your investigation; and second, I suppose there are some special points which the committee wishes to inquire into, and that does not require that all our papers, covering two or three years, should be produced.

The CHAIRMAN. You can do as other gentlemen similarly situated have done, confer with the counsel of the committee and learn from him just what is required, and there will be no difficulty in reaching a conclusion that will be satisfactory to both of you, I am sure.

The committee then adjourned until 10 o'clock, Tuesday, May 1, 1888.

WASHINGTON, D. C., May 1, 1888.

The committee met at 10 o'clock a. m. Present: Mr. Bynum (in the chair), Mr. Smith, Mr. Buchanan, Mr. McKinney, Mr. Grimes, and Mr. Crouse.

Mr. GOWEN. I understand that Mr. Baxter, who is counsel for the

Louisville and Nashville Railroad, intended to make an application this morning to the committee upon the subject of the necessity of his witnesses attending, although those witnesses have been subpoenaed and were directed to be here on Monday. But at the suggestion of one of the gentlemen of the House, Mr. Butler, I agreed, with Mr. Bacon's consent, that if they were here this morning it would answer. Now, I would like to know if Mr. J. M. Culp is here.

(Neither Mr. Culp nor the other witnesses of the Louisville and Nashville road being present, Mr. Gowen proceeded:)

Mr. Baxter, counsel for the Louisville and Nashville road, gave me notice yesterday that he had prepared an argument, or a petition, which he said he would give me a copy of, but I have not yet received it, raising this question before the committee—I understand he intends to take the position that under the Kilbourne case Congress has no right to compel the attendance of these witnesses or the production of the papers. If he intends to raise that question I would like it to be introduced before the examination of the witnesses.

Mr. BYNUM. I should like very much to hear that question before the full committee. The chairman will be here at 12 o'clock.

Mr. SMITH. If the gentleman is not here to produce these papers, this committee is not obliged to wait.

Mr. BYNUM. Mr. Baxter was here yesterday and desired to present the matter then, but did not have an opportunity on account of other matters.

Mr. SMITH. I understand that, but he was notified, as well as the rest of us, that we would be here at 10 o'clock, and that he should be here and have his papers all ready to present them.

TESTIMONY OF A. J. MASSETT.

A. J. MASSETT, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Cincinnati.

Q. What is your business?—A. Steam-boat and forwarding agent, general freight agent of the Southern Transportation Line, running from Saint Louis to New Orleans.

Q. That line is engaged in the transportation of freight upon the Ohio and Mississippi Rivers, is it not?—A. Yes, sir.

Q. And on other rivers as well?—A. We connect with lines that radiate from the Mississippi River, and also from the Ohio River, and also connect with steamers running from Pittsburgh and Wheeling to Cincinnati.

Q. Do you make through bills of lading with all these people?—A. Yes, sir.

Q. Now state what you know upon the subject of the transportation of oil by river lines, and especially in respect to the interference you have had by the efforts of the Standard Oil Company, or through agents of theirs, to prevent it, and what has been done and what the matter resulted in. You can go on in your own way.—A. Most of the carrying of oil by our steamers has been done for outside independent refineries.

Q. Those not in the Standard Trust?—A. Not in the Standard Trust or Standard pool. We most generally took their oils at Cincinnati, brought by the Wheeling packets mostly from Marietta, Parkersburgh,

and various points, and at certain times we have had suits to defend. Our boats were libeled under the plea that we were violating certain sections of an act of Congress relating to the carrying of oil by steamers, and in every instance we have been exculpated by the district court of the United States, notably in two instances, one at Vicksburg, the latter part of 1882, or the early part of 1883, where suit was brought on the steamer *U. P. Schenk*, which was libeled at Pittsburgh. That suit was defended by our company at Jackson, Miss., and our boat was released, and we authorized to continue with the carrying of coal oil. We carried it at that time under the permission given by printed authority by the United States local inspectors, a copy of which I hold in my hand, giving us authority to carry refined petroleum between points and places subject to the provisions of section 4472 of the United States Revised Statutes, to such points as Memphis, Tenn., Vicksburg, Miss., Natchez, Miss., and New Orleans, La., on the plea that the rates of freight by water were so much less than those by rail. We were authorized under the meaning of that section, and under the rulings and decisions made by different United States district judges, to carry it on our passenger steamers, with suitable restrictions, to these points.

Q. I understand that the laws of the United States had forbidden certain transportations of petroleum upon vessels carrying passengers, except under certain conditions, and among those conditions there was this: that where no other route was practicable, you were then allowed to carry petroleum under certain defined articles?—A. Yes, sir.

Q. Did not the court, and notably Justice Matthews, decide that where the rate by railroad was so high as to exclude the business that there was therefore no other practicable route, and that you were entitled to carry it?—A. Yes, sir; that was the decision of Justice Matthews. It was the first decision he rendered.

Q. Now, state whether, at the time covering the period embraced in these decisions in which it was held that the rate by railroad was so high as to make that route impracticable, the Standard Oil Company and their affiliated interests had not been shipping by rail.—A. They had. They had never shipped anything by us except to points not reached by rail.

Q. State whether or not during that period their competition by rail had enabled them to ship oil over the railroads, they were shipping oil over the railroads.—A. I believe they were. I am not conversant with all their business, but I suppose they were. They were not shipping it by our boats.

Q. Can you tell us what difference existed at that time between the open public rates on the railroad, which any individual refiner might make use of, and your rates. I do not require you to go into details as to every station, but give us, in a few cases, the principal ports, and generally the proportions that existed between the two rates, to the best of your knowledge?—A. On oil shipped from Marietta, Ohio, to Vicksburg, Miss., our rate by water was \$1.30 per barrel. I do not know exactly what the rate was by rail from Marietta at that time, but it was considerably higher, so brought out in the testimony produced before the court at Jackson, Miss. Of that rate we obtained \$1 from Cincinnati, and the packets from Marietta to Cincinnati got 30 cents, which was sufficiently low to enable these outside independent refineries to put their oil into Vicksburg and Natchez as against the Standard Oil Company people.

Q. Shipping by rail?—A. The steamer *Schenk* took oil there—I think 56 barrels, shipped by George Rice, of Marietta. On her arrival at

Vicksburg she was libeled on the ground that she had no right to carry petroleum to Vicksburg, on the ground that there was a direct rail connection from Marietta. We gave a bond to fight the suit in the United States district court.

Q. How many times were you libeled?—A. I can not state the number of times. That was one notable instance. This decision of Justice Matthews was on the Memphis cases. There were several libels issued there.

Q. As many as half a dozen?—A. As far as our line was concerned, I think not.

Q. How many times?—A. I do not recollect particularly of more than two, but we were threatened a great many times.

Q. Do you know of any other steamers being libeled?—A. The Memphis and Cincinnati Packet Company.

Q. Did you receive at any time any notification or threat that if you did not cease carrying oil for these individual refiners you would be libeled?—A. One of our agents at the point where the rail routes reach notified us that we should be very careful or we would have trouble in carrying oil to those points. We addressed a communication to John G. Carlisle, Representative from our district, to get some authority from the inspectors, and this permit was issued by the inspectors subsequent to that.

Q. Do you know anything about the Anchor Line ceasing to carry oil?—A. Only that they did not carry oil to any point reached by rail.

Q. Then that line has gone out of competition with rail lines?—A. Except to outside points.

Q. There is no competition with rail lines to outside points?—A. They take it and ship it over the short packets, as we call them, from point to point.

Q. Now, do you remember that some time this spring, within a few weeks, the Interstate Commerce Commission decided that the railroads south and west must carry oil for the same rate per hundred pounds when carried in barrels as when carried in tanks?—A. Yes, sir; I am acquainted with that fact.

Q. Prior to the announcement of that decision you carried no oil for the Standard Oil Company or affiliated companies?—A. Except to points not reached by rail.

Q. Now, since the announcement of that decision state whether application has been made to you by the Standard Oil Company to carry oil.—A. I think Mr. Howard Page, their representative at Louisville, applied to me about that time to make a contract for the carrying of their oil.

Q. State what occurred. Did he want a lower rate than the public rate?—A. That question stopped right there. I told him we had no rates to give him except the regular rates. The question of price was not discussed by him with me at that time; just simply a general agreement to carry oil for them. He wanted to make an arrangement with me for the carrying of oil. If I recollect aright, I believe he visited me twice on that subject. I agreed to meet him at Louisville and discuss the matter, but we never met, for the reason that I was afraid we would not get the oil and that the railroads would know what we were doing.

Q. State publicly your reason.—A. It was that the railroads would find out our programme in making an agreement of that kind, and I preferred not to do it, as we were not getting their business at any time.

Q. You were apprehensive that if you agreed with him he would get a better rate from the railroad company?—A. Yes, sir.

Q. Has the standard or any of the companies affiliated with the standard sent oil over your roads to competitive points?—A. I think they may have after the special rate was made for them by the rail lines.

Q. Do you know Mr. John C. Galt?—A. Yes, sir.

Q. What is his position?—A. General manager of the Cincinnati, New Orleans and Texas Pacific.

Q. Did you hear him admit that he had been subpoenaed to come here?—A. No, sir; I went to see him on Saturday to know if he was coming. I did not want to come myself, because it would be a great detriment to my business.

Q. What did he say?—A. He said he was not ready, and that they were in correspondence with Mr. Bacon on that subject.

Q. Did he say whether he was coming or not?—A. No, sir; he said he could not bring the papers and correspondence until he got further time.

Q. Did he advise you about coming at all or suggest anything?—A. I asked him if he was coming Sunday morning, and he said he could not come, but that they would be represented here by counsel.

Q. Did he say anything to you about the necessity of your coming?—A. No, sir.

By Mr. BUCHANAN:

Q. You have been speaking about your boats being libeled for transporting oil on passenger vessels. Can you tell me at whose instance those libels were issued?—A. I can not. We never investigated into the facts.

Q. At whose instance did it purport to be?—A. All we know is that the United States marshal served us with a process of the court to answer to the charges.

Q. You never investigated to see who was the moving party?—A. No, sir; we never did. By inference we took it that it was some one connected with the Standard Oil Company.

Q. That is the inference which you drew?—A. Yes, sir; we had no positive data to establish that fact.

Q. I understand that was the inference which you drew; but the testimony would be more valuable to the committee if you could give us some positive data?—A. I have not the data, because we never investigated who the parties were.

Q. You do not know whether the suits were instituted by order of the health authorities of any city or by any public authority of any kind?—A. At the time we had correspondence from our agents stating that the United States courts had taken action against us, but they did not say who was the author of the affidavits against us.

Q. You knew that the United States courts would not institute those actions themselves, did you not?—A. Yes, sir; generally we knew that.

Q. There must have been a moving party in court, and you did not investigate who that moving party was?—A. We did not.

Q. You say you have been charging a rate of \$1.30 from Marietta to Vicksburg. How many pounds does a barrel of oil, including the barrel, weigh?—A. We have always estimated it by common agreement and consent at 400 pounds to the barrel.

Q. Your freight rates then were \$1.30 for 400 pounds of freight, as nearly as you could get at it?—A. Yes, sir.

Q. Is that above or below your ordinary freight rate between those points for other articles?—A. About the average. At that time when

we made that rate we were getting \$1 a barrel on whisky of about the same weight.

Q. Why did you give a preference of 30 cents a barrel to whisky over oil?—A. It came from a point 400 miles up the river. That was for the purpose of paying transportation from Marietta to Cincinnati. Our rate on whisky was \$1 a barrel.

Q. Then they were alike for the same distance?—A. Yes, sir.

TESTIMONY OF HARLOW DOW.

HARLOW DOW, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Memphis, Tenn.

Q. What is your business?—A. Dealing in petroleum products and illuminating oils.

Q. How do you deal in it; buy and sell?—A. Yes, sir.

Q. State whether you deal in the oils of the Standard Oil Company organization or outside of it.—A. I buy from independent refiners. I have never sold any oil to the Standard Oil Company.

Q. Then you are in competition with the Standard Oil Company?—A. Yes, sir.

Q. Over what district of country does your competition extend?—A. The whole surrounding territory of Memphis, Tenn.—Mississippi, Arkansas, the entire trade of Memphis.

Q. You make Memphis your distributing point?—A. Yes, sir; all that section of the country from every direction—eight great lines of railroad.

Q. Are you acquainted with the lines of railroad running northward from Memphis, the Chesapeake and Ohio line?—A. Thoroughly acquainted with it.

Q. What is the corporate name of that company?—A. It was formerly known as the Chesapeake and Ohio, and latterly as the Newport News. We call it the Chesapeake, Ohio and Southwestern.

Q. That is the Chesapeake, Ohio and Southwestern?—A. Yes, sir.

Q. Now, are you acquainted with the towns along the line of that railroad north from Memphis, say, for a 100 miles?—A. I am.

Q. Do you know Covington?—A. Thoroughly acquainted with it.

Q. How far is it from Memphis?—A. Forty miles.

Q. Do you know Ripley?—A. Yes, sir; it is just beyond.

Q. About 60 miles from Memphis?—A. Yes, sir; in that neighborhood.

Q. Do you know Dyersburgh?—A. That is still beyond, 76 miles from Memphis.

Q. Do you know Newburn?—A. Yes, sir; it is 83 or 84 miles.

Q. Do you know Obion?—A. That is still beyond. These five towns are along the line of the road of the trade of Memphis.

Q. Now, state whether or not, in shipping to these towns from Memphis, there are any of the towns except Dyersburgh large enough to take full car loads at a time.—A. Not a single one that could receive a car load of oil. Their capacity is insufficient to handle it.

Q. Now, state whether you know as a fact that your competitors, the Standard Oil people, are shipping to these towns in less than car-load lots.—A. All oil that goes over the road from Memphis goes to these towns in less than car-load lots.

Q. In the same manner that your oil does? I mean all that goes by rail.—A. Yes, sir.

Q. Now, if you have any memoranda you can refer to it to refresh your recollection, and I want you to give us the rate per barrel on oil that has been charged to you by this company to these different towns, and the rate per barrel that is charged to the Standard Oil Company.—A. To do that I had better go back to the first commencement of that road. You see it has been a new rate and they have changed two or three times. I can give the changes, commencing about four years back, before they entered into an alliance with the Standard Oil Company, and the changes that took place after their alliance with them. I have brought all of my oil, pretty nearly all of it, over the Chesapeake and Ohio road. When they first started they were anxious for freight, and they gave me a very favorable rate of freight, and they extended favors, to not only myself but to the world, to Dyersburgh, Ripley, and Newburn, owing to their being in competition with river navigation. Dyersburgh is the most important town in West Tennessee. It is growing rapidly, has two banks, a school, and churches. It is a very important town, from the fact of its being connected with Memphis by river navigation, and to compete with that river navigation they made a freight rate pre-paid to me—I was probably the one to whom it was of the most benefit—\$1 a barrel to those three towns. That was soon after the road opened.

Q. How long did that continue?—A. It continued from the time it commenced, which was probably about eighteen months, up to the fall of 1885. The Standard Oil Company sent a man to Memphis in the early part of 1884, soon after they commenced to organize for this trade, a man by the name of Meninger. They opened an office in the center of the city, and for one year this rate continued, until he left. He found that he could not compete in the way he was doing. My trade was growing rapidly, and I was doing well, and they found it necessary to get rid of me in the oil business. Before he left he went to Cairo. Simultaneously with his leaving for Cairo, this rate of \$1 to Dyersburgh was canceled, and it was given out by the Standard Oil Company that these towns would then be filled and supplied from Cairo. It was supposed that it would be done; that he was going there to supply these towns from Cairo, Ill. Simultaneously with his going up there this rate of \$1 to Dyersburgh was canceled. When he went to Cairo, in the fall of 1885, they then made these rates. I have a memorandum showing the rates, which have continued with slight variations, at the time of the commencement of the interstate-commerce law, but really practically the same. Here are the rates that are now in force, but they are practically the same rates as then established from Covington to these five important towns on the Chesapeake and Ohio Railroad. Memphis is 40 miles to Covington. The rate is 26 cents 100 pounds, or \$1.04 per barrel, 400 pounds to the barrel. That is first-class rates of freight, and the fourth-class rate is a mileage rate, that is 15 cents a hundred pounds, or 60 cents for 400 pounds. Now going on to Ripley, 60 miles—

Q. That which you have stated is from Memphis to Covington?—A. Yes, sir.

Q. From Memphis to Covington, 40 miles, the first-class rate for less than car loads is 26 cents a hundred, or \$1.04 a barrel?—A. Yes, sir.

Q. From Memphis to Covington the fourth-class rate would be 60 cents a barrel?—A. Yes, sir.

Q. Now, then, do you know whether the Standard Oil Company, on less than car-load rates, gets the benefit of fourth-class rates?—A. I know it in a way that I will show directly; I know they do.

By Mr. CROUSE:

Q. Is that lower from Memphis?—A. Yes, sir.

By Mr. GOWEN:

Q. How do you know it?—A. Let me go on and state Dyersburgh in connection with that. Now, passing to the town of Ripley—

Q. What is the fourth-class rate to Ripley?—A. The fourth-class rate is 19 cents a hundred, 76 cents a barrel.

Q. What is the first-class rate?—A. Thirty-three cents a hundred, \$1.32 a barrel.

Q. Now go to Dyersburgh.—A. It is this important town.

Q. Now give us the rates.—A. Forty-five cents is the present rate, reduced from 50 cents to 45 cents.

Q. That is the first-class rate?—A. Yes, sir; \$1.80 a barrel.

Q. What is the fourth-class rate?—A. Twenty-eight cents a hundred, or \$1.12 a barrel, a difference of 68 cents.

Q. Now go to Newburn?—A. Newburn is 47 cents a hundred pounds for first-class rate; that would be \$1.88 a barrel. The fourth-class rate is 30 cents a hundred, or \$1.20 a barrel, making a difference of 68 cents a barrel.

Q. Now to Obion?—A. Fifty cents a hundred, making \$2 a barrel.

Q. What is the fourth-class rate?—A. Thirty-three cents a hundred, making \$1.32 a barrel—a difference of 68 cents.

Q. Now state whether in shipping by rail from Memphis to any of these points in less than car loads you have to pay first-class rate.—A. On every barrel I ship less than a car load to one consignee.

Q. Now, how and at what rate does the Standard Oil Company get its oil over this road to the same point in less than full car loads?

Mr. CROUSE. From Memphis?

Mr. GOWEN. From Memphis to the same points.

The WITNESS. They have been getting their oil at fourth-class rates in 10-barrel shipments; nothing less than 10-barrel shipments.

Q. How do you know that fact? I want to know how you know the fact that they are getting it at fourth-class rates in 10-barrel loads.—A. This agent said so.

Q. Who is he?—A. Meninger. He did not tell me, but he told a man that I sent to him.

Q. He told one of your agents?—A. Yes, sir. Then I was convinced of it in another way by positive proof; after sending one or two men to this agent of theirs and getting it indirectly from them that the freight was at such a price. I had heard of it all the time in various ways, and this was more proof of it. I knew it, but was not positive. Now, then, B. F. Mitchell lives in Louisville.

Q. Who is he?—A. He is the general freight agent of the road, with headquarters at Louisville. These men at Memphis were under him and I could not do anything. They knew nothing. I did not know Mitchell and he did not know me. I was looking for him. One morning about 9 o'clock I heard he was in Memphis, and I became very much interested in seeing him. I bursted into his office and told him who I was. I told him I had proof that he was carrying oil for the Standard at fourth-class rates of freight. He said, "They are cutting the price and you are complaining." I said, "No, sir; I am cutting the price. I ask no favors and only ask to be placed on a footing with the Standard

Oil Company." He said, "I am giving them fourth-class rates of freight on account of their being heavy shippers." That was Ben Mitchell, who is the head man in the freight business in Memphis of that company.

Q. He admitted that fact to you, did he?—A. Yes, sir; and afterwards acknowledged that they were not treating me right.

By Mr. BUCHANAN:

Q. I do not understand from your statement just who it was who said this.—A. Mr. Mitchell said it in the presence of the agent at Memphis, who said nothing.

Q. It was the agent who said nothing?—A. Yes, sir. Afterwards he admitted that they were virtually treating me bad.

By Mr. GOWEN:

Q. What is Mr. Mitchell's title?—A. General freight agent and head man of the road.

Q. And this he said in the presence of the local agent at Memphis of the same road?—A. Yes, sir.

Q. And that local agent who then said nothing, you say, afterwards practically admitted the fact?—A. He said we are not treating you right. He said that even a great corporation was afraid of them, and we can not come in contact with them.

Q. Now, going back to each of these towns and stating in actual figures per barrel, the difference of rates now from Memphis to Covington according to your statement would be 44 cents against you?—A. Yes, sir.

Q. To Ripley 56 cents?—A. Yes, sir.

Q. To Dyersburgh 68 cents?—A. Yes, sir.

Q. To Newburn 68 cents?—A. Yes, sir.

Q. To Obion 68 cents?—A. Yes, sir.

Q. And the difference of 68 cents a barrel as between you and them in the three towns of Dyersburgh, Newburn, and Obion is in towns, the nearest one of which is about 75 or 76 miles and the farthest one only 95 miles from Memphis?—A. Yes, sir; about that.

Q. Now, state whether or not in consequence of this competition against you you have been able to introduce your oil in any of these towns except Dyersburgh?—A. I had a good trade in those towns and lost it entirely. For instance, take this little town of Newburn.

Q. Give us the fact.—A. The fact is I had a good trade in Newburn, and sold to thirteen out of the sixteen or seventeen men in that line of business there, and I was in the town a few weeks ago and could not sell a barrel without a loss.

Q. Does that same condition exist in Covington and Obion?—A. Except they reduced the freight a little more in Covington than other places. You might haul it by wagons. In fact I haul it in wagons now.

Q. Over what length of distance do you haul oil in wagons in order to compete with the railroads?—A. Forty miles south of Manito. All the oil I sell there is in the town of Manito on the Illinois Railroad.

Q. Do you understand that the rates against you on that railroad are so high that you can for a distance of 40 miles transport your oil by wagon and meet the competition better than you can by using their own road?—A. Infinitely better.

Q. Now tell us about Dyersburgh. How did you meet the competition there?—A. As I remarked before, they had given a dollar rate to the world.

Q. Now, only answer my question. How did you meet the competition at Dyersburgh?—A. By river.

Q. Now, does not the Mississippi River run parallel practically to this railroad for a great length?—A. The entire distance to Newburn.

Q. How far from the railroad crosswise is the river?—A. About 17 miles.

Q. Is there not a branch river that empties into the Mississippi, near Dyersburgh, by which you can get— A. Yes, sir. I ship near the mouth of Forkadier River. Steam-boats are running there every day. I shipped 20 barrels last week to that town.

Q. Since the interstate commerce decision, have the rates on this railroad to the several points you have named been changed so as to give you as fair a chance as the Standard Oil Company has to introduce your oil in competition with them?—A. There has practically been no change whatever. They have simply had a revision.

Q. What was it; can you state what it was?—A. As far as I can remember, the rate formerly to Dyersburgh was 48 or 50 cents. Now I see it is 45.

Q. At 45 cents to Dyersburgh would make \$1.80 a barrel?—A. Yes, sir.

Q. Is that the present rate?—A. Yes, sir; I think about \$1.92 was the rate before.

Q. Do you mean, then, to say that this difference between first-class rates and fourth-class rates, the latter of which is given to the Standard Oil Company and the former of which you have to pay, has been practically maintained since the passage of the interstate commerce law?—A. They are still shipping, and on last Thursday they shipped 10-barrel lots, and the price is so low as to rule me out.

Q. Up to last Thursday?—A. Yes, sir; to the town of Ripley 10 barrels, and to the town of Obion 15. They ship every week one or two lots, and they ship all oil that goes to that road in less than 10-barrel lots.

Q. Within what period of time was it that you last visited this town in order to see whether you could compete with them?—A. About three weeks ago to-day.

Q. You then found the same state of things existing?—A. Yes, sir.

By Mr. BUCHANAN:

Q. I understand your question to be practically whether to-day or within a very short period of time the Standard Oil Company could secure the shipment of a 10-barrel lot at a less figure than he could. That is what I want to know distinctly from him.—A. They did at that time and they have kept up the same 10-barrel shipment to the present day, and they have sold their oils in these five towns at less than I can put it there, the difference in the price which I pay and they pay being far greater than the profit on the oil.

Q. Have you not made application to them to know whether you will be allowed to ship a 10-barrel lot at the same rate that is given to the Standard Oil Company, to wit, the reduced rate?—A. I have asked them a hundred times.

Q. Since this interstate-commerce decision which you have spoken of?—A. I have asked them for it.

Q. Since this decision?—A. Yes, sir; a dozen times.

Q. Your remedy seems to be plain under the law which already exists.—A. I can not prove positively that the money is paid so and so. I only know that Mitchell acknowledged to me that time that these were fourth-class rates on car-load rates of freight. Now they deny it; but the same state of facts exists. You will see now what they are.

doing at Dyersburgh. When I shipped 20 barrels up to Dyersburgh at \$1 about two weeks ago, they were shipping oil during the same time for \$1.12. I had 12 cents the advantage of them.

By Mr. GOWEN:

Q. You had 12 cents the advantage of them by using the river?—A. Yes, sir. I shipped 20 barrels last Thursday. It is a large town and I have the trade there. I can not compete at those other towns.

Q. Will you look at this paper [handing witness a paper]? State what it is and where you got it.—A. It is a bill of lading for 10 barrels of coal oil over the Louisville and Nashville Railroad to Brownsville.

Q. From where?—A. Memphis to Brownsville, a distance of 74 miles, over the Louisville and Nashville.

Q. At what rate was that?—A. Eighty cents a barrel.

Q. Who shipped that oil; whose oil was that?—A. It was my oil.

Q. Where did you get that bill of lading?—A. I had better tell you the whole circumstances.

Q. Yes. What I want to know now is what, in October, 1886, your rates were over the Louisville and Nashville Railroad on 10 barrels of oil from Memphis to Brownsville, and what the rate of the Standard Oil Company was at that time?—A. This is the Standard Oil Company rate. The rate to me was \$1.68, more than double.

Q. Then you made a mistake in saying that it was your rate before?—A. No, sir; I did not say it. This is my oil that I got over their roads.

Q. Now tell us how you got that.—A. In July of the preceding year the Chesapeake and Ohio road raised the freight coming south over that road to me from 75 cents to \$1.27. I brought in about 1,000 barrels of oil by river at 50 cents a barrel to Memphis, to prevent paying \$1.27. I made \$600 or \$700 on that oil, and it practically kept me in the trade by a fortunate circumstance of a rise in the Ohio River in July or August. I brought it down there, and owing to the intensity of the hot weather, it being a perishable article, it became necessary for me to provide storage for this oil, and J. H. Coffin, in whose name these 10 barrels were shipped, having been an agent of the Standard Oil Company, had just built a large, cool warehouse, and he wanted me to store with him. I stored a large portion of this oil with him in a cool cellar to keep it from evaporation and so on. He says, "You are storing with me, and this Standard Oil Company has given me this rate of freight on 10-barrel lots. It is nothing to me; my trade is merchant here. If it is any use to you you may ship your oil on my tickets as a favor, and you can save a good deal of money on a few barrels." I did not care much for it, but I said, "I will try one or two of them."

Q. What did you do?—A. I sent around 10 barrels. I shipped it to this man and I sold him one or two barrels. I told him to give me some cheap oil. I sent 10 barrels to him that morning and used the dray tickets. He went around to the depot and got this bill of lading. To me it would have been \$1.68.

Q. At the time when you found their rate was 80 cents a barrel, and you were shipping some of your oil on the dray tickets of their agent, your rate was \$1.68?—A. Yes, sir.

Q. That was a difference of 88 cents a barrel?—A. Yes, sir.

Q. That was 88 cents a barrel for a distance of 68 miles?—A. Yes, sir; 10-barrel lots.

Q. Could you stand such competition as that?—A. No, sir. Before that I went up there and sold to every man in the place, nearly. They were

glad to see me in opposition to the Standard Oil Company. I lost them, except one man who was so prejudiced that he would not buy from them. He is my only customer there, and I sell to him, but I can not make anything on it. I can not sell it at a profit there. We do not begin to make any profit on oil merchants.

Q. You do not begin to make a profit equal to the difference of freight?—A. No, sir; not the half of it.

Q. What railroads in that section of the country are there that discriminate against you and in favor of the Standard Oil Company?—A. Three. We have eight roads, but three discriminate against us.

Q. Which are they?—A. Chesapeake and Ohio, Louisville and Nashville, and the Mississippi and Tennessee, now the Illinois Central.

Q. That is all—the Louisville and Nashville, the Chesapeake and Ohio, and the Illinois Central, formerly the Mississippi and Tennessee?—A. Yes, sir.

Q. Now state whether or not, in the district over which these three railroads that discriminated against you are located, except at places where you can get river navigation, you have or have not been practically driven out of the business.—A. I can not do any thing with them at all.

Q. Except where you can get river navigation?—A. That is all. The trade that I get on those three roads is undesirable to them. There are a great many stations where there is but a single house or two, and no agents, where I have to prepay freight. I get letters frequently for oil, and a good portion of the oil I sell I have to prepay the freight on. I get letters like this: Mr. Dow, send me so many barrels of oil. I sell single-barrel lots, and to towns where there are but one or two merchants, and I ship to them, but I have to charge them more than I do at the large towns.

Q. State whether you had a tank-wagon and team for distributing oil in some of these towns.—A. Yes, sir; it paid very well to have a tank-wagon. I built one, and it cost me, together with the horses and harness, \$450. I run it about a year and was making money. Then they put it down to 7½ cents, distributing around groceries. I stopped the wagon and it has been idle in the stable ever since.

Q. Can you give us the traffic in refined oil—what was the business in 1886; or, if you have it for last year, give us that?—A. It increased from 1876.

Q. Tell us what the figures were.—A. Eleven thousand eight hundred and seventy-three, in 1876. Then in proportion to the growth it run up to 100 per cent., nearly 21,364, in 1886 and 1887. The present year the inspector was sick and could not give me the figures when I was coming away; but this year it will be a large increase; for last year it was 21,364.

By Mr. BUCHANAN:

Q. I would like to know exactly what effort you have made to secure from these railroad companies, since the announcement of the decision of the Interstate Commerce Commission, a rate upon your oil the same as is given, as you understand, from a combination of circumstances which you observed, to the Standard Oil Company?—A. I was simply going to their offices repeatedly charging them with carrying this oil over the road. They said if it was a different price they did not know it, and I could never get it.

Q. How recently have you done that, the last time?—A. I was in the office of the Louisville and Nashville within a month. They had a

new man there. I went in and asked him some questions about a certain town. I then asked this new man in the office of the Louisville and Nashville—the man who gives the freight rates, on Main street—if he had any 10-barrel rates to give; he told me he had not. He acknowledged he did not know what he was talking about. He said, “We did give the Standard Oil Company agents 10-barrel rates, but we have recently quit them.” I told the men out in front that they had better post their man. This new man acknowledged it. He said to me, “We have given them, but we are not now giving any 10-barrel rates at all.”

Q. I am seeking to ascertain, as a legislator, whether any loopholes still exist subsequent to this interpretation of the Interstate Commerce act by the Interstate Commission by which one shipper can obtain a preference in rates over another shipper. I am seeking to ascertain that as a fact. As I understand you, you say that you know it from this aggregation of circumstances which you have observed and which impels you to the belief that they have obtained such a rate, but have not personal knowledge?—A. Only as Mitchell acknowledged to me that he had.

Q. I am speaking about the acknowledgment or the information since this last interpretation by the Interstate Commerce Commission. What was the date of that?

Mr. GOWEN. It must have been in March.

Mr. BUCHANAN. Say two months past.

The WITNESS. I have no positive knowledge, except from the circumstances. The Standard ships in tanks, and part of one of these shipments was shipped in 50 barrel tanks. On a shipment of 50 barrels they get a lower rate of freight. Mitchell told me the rate of freight on those tanks; they get an advantage on those 50-barrel tanks.

By Mr. GOWEN:

Q. Were these shipments to these four or five towns made in tanks or barrels?—A. Both.

Q. If they ship 10 barrels in a tank do they get the benefit of that fourth-class freight on it?—A. Yes, sir.

By Mr. BUCHANAN:

Q. That is the next inquiry I proposed to make, as to how these shipments were made, whether in tanks or barrels, or both?—A. Both.

Q. What has been the largest amount in barrels of your dealings in oil since you went into business?—A. For a year?

Q. Yes; the largest amount.—A. My trade run up 100 barrels a week at the time when they raised the freight on the Chesapeake and Ohio from 75 cents to \$1.27. I was then selling 100 a week, 400 a month, or 4,000 or 5,000 barrels a year.

Q. How much decline has taken place in the volume of your business owing to these circumstances which you have detailed before us?—A. I am not selling now over one half the amount I did at the time that freight was raised. It ought to have been a large increase.

Q. Up to that time your business had been on the increase; up to the time of the raising of those freights?—A. Oh, increasing rapidly; and simultaneously with this advance from 75 cents to \$1.27 they put the price of oil down in Memphis nearly 1 cent a gallon.

Q. You stated that during that time, the time previous to the raising of these freights, they had given you a very favorable rate. What do

you mean by that?—A. A favorable rate, coming from Marietta and Pittsburgh, of 75 cents in 100-barrel cars. I considered that a very favorable rate.

By Mr. GOWEN:

Q. That was to Memphis?—A. To Memphis. We did not care what the rate was to these towns, so it was uniform.

By Mr. BUCHANAN:

Q. Was that rate you have just spoken of given to any shipper that applied, or were you favored with a special rate?—A. Do you mean from the north coming south?

Q. I mean what you call a favorable rate. You say you were given a very favorable rate at the commencement of your business.

Mr. GOWEN. In 100-barrel cars going south?

Mr. BUCHANAN. Excuse me, I am asking these questions, if you please. I now ask you whether that rate which you denominated a favorable rate was open to any one desiring to ship similar lots?

The WITNESS. This rate was prepaid. It was sold to me paid to Memphis, and the oil came at a price prepaid in that way which allowed me to compete, but when the price was raised to \$1.27 it was put up 52 cents a barrel and the price charged to me.

Q. Will you be kind enough to answer my question, which is plain and simple? The favorable rate which you speak of as given to you, was that a rate that was open to any one desiring to ship similar lots?—A. Yes, sir; that was always an open rate to the world up to that time.

By Mr. CROUSE:

Q. What we are trying to get are facts. Of course we must draw our own inferences. I desire to ask you a few questions, because your answers to questions already put have had a tendency to confuse me. Going back to the time that you and another agent were located at Memphis; what time was that; what year was that?—A. That agent—

Q. Now just answer the question?—A. In the spring of 1884.

Q. That agent, however, for some reason or other did no business?—A. No, sir; he did not succeed.

Q. He went to Cairo?—A. Yes, sir.

Q. After he went to Cairo you said they then had commenced this discrimination against you?—A. Yes, sir.

Q. Who was there at Memphis after he left to direct these shipments from Memphis in 10-barrel lots that were given more favorably to whom-ever it was than to you?—A. They had their works there, a mile and a quarter, where they stored their oil, and they had men there, and they discontinued the office in the heart of the city.

Q. You stated that after he left this 10-barrel rate was given and used against you.—Yes, sir.

Q. Who was there to direct these shipments?—A. I reckon they have had half a dozen men; I can not tell now.

Q. Then the answer is that when this agent, who did not do any business, left, some one else came?—A. No, they discontinued that particular office which he had to get the merchants' trade, and the men at the works then conducted the business and shipped from the works.

Q. You mean from the refinery?—A. No; they didn't refine oil there. They bring it there refined and draw it off and barrel it.

Q. What do you mean by the works?—A. I mean they brought pretty much all their oil over the Louisville and Nashville road in large 100-barrel tanks, and bought second-hand barrels, and rebarreled it at the

works, and sent it from the works to the depot to be distributed in 10-barrel lots.

Q. What year was that?—A. He came in 1884, staid a year, and went away. He came in May or June. He must have left about November, I think. I think he staid there about a year and four months.

Q. That would bring it to what year?—A. The last of 1885.

Q. Now, I want to ask one more question with reference to the present rate. After the interstate-commerce law went into force you have testified that with a slight variation or revision of rates the same state of affairs continues?—A. Yes, sir.

Q. That is, your rate was first class and their rate was fourth class on 10-barrel lots?—A. The same thing continued. Everything went in 10-barrel lots, and the price continued all the time.

Q. From the time that the interstate-commerce law went into effect up to the present time?—A. Yes, sir.

Q. On that point you testified that it was by inference that the same rate continued. Prior to that you stated that the freight agent acknowledged it.—A. Yes, sir.

Q. But since that you have testified that it was by inference, because you could not compete in the trade.—A. I will say this, that while I repeatedly demanded these rates, on one particular Thursday I went to see Ben. Mitchell, and I found he was there. I went to the depot on that Thursday to see what they were doing. I charged him in his office with still continuing 10-barrel lot shipments, and he denied it and said it was not true. He said he was not shipping 10-barrel lots. I said, don't be so fast; go to your telephone and ask your agent. He telephoned to him, and he said there were two lots at the depot then. He denied it, and I begged him to go down there with me. My office is within two squares of that depot, and I saw the shipments every week.

Q. That is not what I want to get at. As a matter of course the 10-barrel shipments undoubtedly continued.—A. I have no positive proof of that further than I have given.

Q. On what do you base your inference?—A. From the fact that in these five towns on this road, two or three on the Illinois Central, and half a dozen on the Louisville and Nashville, I am driven out of these towns and can not sell a barrel there. I can meet them on equal terms and beat them and get my share of the oil single-handed and alone without going after it. I keep no clerks or drummers, but they send theirs all over the country, and I could force their trade to come to me.

Q. The knowledge you have on that subject is a strong inference because of the state of the trade?—A. The same state of facts exists to-day as when the proof was positive that they did give these 10-barrel shipments.

Q. Now, if you do not know it I do not want to take up the time of the committee. That is just what we want to know. The question is, do you know it as you did before. You knew it before, because they told you point-blank that they were large shippers and they had given them a different rate. Now, that comes to the point that is very interesting to everybody, viz, does this still continue? Now, on that subject your knowledge is not positive, but you infer that it continues because your trade at these several points has gone into the hands of your opposition. You infer it, but have you any knowledge on the subject?—A. No positive legal knowledge.

Q. And that knowledge is based upon the fact that you have lost the trade and the circumstances surrounding it?—A. The circumstances surrounding the direct fact that while they can ship to Dyersburgh for \$1

they pretend to pay \$1.80. They are not prepared to pay the usual rates of freight. I pay at the same rate, \$1.80. I have the trade there and have not anywhere else, and send 20 barrels there while they send 5.

By Mr. GOWEN:

Q. In other words, your rate by river to Dyersburgh is about \$1?—A. Yes, sir.

Q. And the first-class freight from Dyersburgh is \$1.80?—A. Yes, sir.

Q. And they are competing with you at Dyersburgh?—A. Yes, sir; I have the advantage of them there.

Q. By rail?—A. Yes, sir.

Q. When was it that you had this first conversation with Mitchell when he admitted that they were giving them fourth-class rates; how long ago?—A. I have no data. The agent left for Cairo in 1885. Then I was hearing of it all along and looking for Mitchell, but could not catch him.

Q. When was it?—A. I must have been six months looking for him. That would bring it up to the last of 1885 or the first of 1886.

Q. When was it you had the conversation with Mitchell in his office when at your request he telephoned the agent at the depot?—A. That was last November.

Q. Since the passage of the interstate law?—A. Yes, sir.

Q. On that occasion, last November, when he telephoned to his agent and ascertained that they were shipping in 10-barrel lots, did the question of their getting fourth-class rates for that come up then?—A. Yes, sir; he denied it.

Q. After he heard that these barrels were being shipped, did he still deny it?—A. Yes, sir; he said it was untrue. He begged me to go to Louisville, saying he would pay my expenses any time, and he would spread his books out and show so and so. I said the books did not prove anything; they proved different from what they were.

Q. I want to know whether you at that time called his attention to the fact that these 10-barrel shipments were still going on at fourth-class rates?—A. I did.

Q. Did he admit it?—A. He saw he was beat, and I didn't say anything more.

By Mr. BUCHANAN:

Q. I would like to know whether he admitted the size of the shipments or the rate, or both.—A. No, sir; he denied the rate.

By Mr. GOWEN:

Q. After that?—A. Yes, sir; after I got him cornered and forced him to admit it.

Q. He did not admit the fact that these 10-barrel lots, even after he found they were going, were going at fourth-class rates?—A. No, sir.

By Mr. BYNUM:

Q. He just admitted that they were going in 10-barrel lots?—A. Yes, sir.

By Mr. BUCHANAN:

Q. You stated, in response to a question of mine, that these shipments were being made by the Standard Oil Company in tanks and in barrels both, to these competitive points.—A. Yes, sir.

Q. Will you state what kind of tanks those are?—A. They are iron tanks, supposed to hold a barrel of 50 gallons. They ship them to

their customers, and charge, I think, \$10 apiece for them. And they are returned to them and refilled at Memphis.

Q. They are not, then, the large 100-barrel tanks that have been spoken about in the testimony heretofore?—A. No, sir.

Q. They are 50-gallon tanks?—A. Yes, sir; barrel tanks.

TESTIMONY OF C. B. MATTHEWS.

C. B. MATTHEWS, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Buffalo, N. Y.

Q. What is your business?—A. Refining and selling petroleum.

Q. Are you in competition with the Standard Oil Company people or in league with them?—A. I have always been in competition with them.

Q. What is the size of your refinery?—A. We make lubricating and illuminating oils, and the capacity is about 1,500 or 2,000 barrels a week.

Q. How long have you been in business at that establishment?—A. Since 1881.

Q. What is its name?—A. Buffalo Lubricating Oil Refinery Works.

Q. You say you make illuminating oils and lubricating oils?—A. Yes, sir.

Q. Do you utilize any of the others by process of refining?—A. We make benzine and gasoline to a small extent.

Q. Any other?—A. Filter oil; make vaseline, cosmoline, and all lubricating oils.

Q. Now, go on and tell us, in your own way, how you use—go back to the year 1881 or 1882 and state how you were supplied, or your district was supplied with oil, by what means, either by rail or pipe, what became of them, how the rates were, and how they were changed, and to what extent they were changed?—A. When I began building the refinery, in the spring of 1881, I built adjoining the grounds of the Atlas Refining Company. The Atlas Refining Company was an independent company at that time, and they were constructing a pipe line from Rock City to Buffalo.

Q. Where is Rock City?—A. It is about 70 miles from Buffalo, southward.

Q. Nearer the oil field?—A. Yes, sir; on the edge of the Bradford oil district.

Q. The Atlas Company was then an independent company?—A. Yes, sir.

Q. And engaged in locating and constructing this line?—A. Yes, sir; they assured me that we should get crude oil at our works for 10 cents a barrel pipeage, and they would have their line completed in a few days. Meantime the Standard Oil Company hurriedly laid a line to Buffalo, along the line of the Buffalo, and Southwestern and Erie road, and began pumping oil there, although they had no refineries. The Rock City Pipe Line was prevented from completing their line by the Erie road refusing to give them a crossing, and the Standard were buying up parties in interest along the line of the right of way, and serving injunctions on the Rock City Pipe Line people, so that they had fifteen or sixteen injunctions at a time, and as soon as the Atlas would raise one injunction they would put on another, so that some months were occupied in getting this independent line through, and it cost them over \$100,000—the restrictions and the stoppage which was occasioned

by the Standard and Erie road in trying to prevent them from laying this line. They continued to use this line for a few months, but their business was afterwards destroyed and they sold to the Standard, and the Standard took up this line which they had laid along the Erie road, and are now operating the Rock City Line. When they assumed control of the Rock City Line, in 1882, the rates of pipeage went up from 10 cents to 25 cents per barrel.

Q. State whether at that time the railroads also advanced their rates?—A. The railroads advanced their rates from 15 to 25 cents per barrel.

Q. That is, about the same time?—A. Yes, sir; from the same points at the same time.

Q. Now, go on.—A. There were several roads leading directly from the oil country to Buffalo; one of them the Buffalo, New York and Philadelphia, and the other the Rochester and Pittsburgh, or the Buffalo, Rochester and Pittsburgh, which was being built; also the Erie road; also the New York Central had connections to Buffalo from the oil regions. I tried to obtain the same rate of 15 cents by the Green Line, which is a transportation company owned by the Pennsylvania Railroad and is operated over the lines of the Buffalo, New York and Philadelphia. I talked with the officers, including Mr. Brundred and Mr. Murray and other officials, and complained of their bad faith in advancing the rate, as they had agreed that I would not have to pay over 15 cents a barrel bringing oil to Buffalo. I was unable, by any argument, to lead them to think that they should keep faith with me.

Subsequent to this I went to the office of Mr. Johnson, the general freight of the agent Buffalo, New York, and Philadelphia Road, and complained to him in regard to it. I told him that the Green Line was not giving us a sufficient amount of oil; that we were greatly restricted, could only operate our works a portion of the time, they claiming to me that they had not got tank cars to transport the oil. I told him I did not believe this; that they had twelve or fifteen hundred tank cars, and I thought they had sufficient tank cars. I said to Mr. Johnson that his company owned quite a number of tank cars, and I thought they should ship oil in their tanks. He declined to do it. He said there were those who had been in the business longer than I had who should have the preference. I told him that the quality of the oil which the Green Line were giving us from Olean was a very poor quality, and I wanted his road to permit me to ship from other points where I might get oil fresh from the wells. He declined to give me any assistance in these directions. Then I told him that I would procure tank cars and put them at the service of his company in our business. He said he could not receive our tank cars and ship them. I asked him why. He said they had a contract with the Green Line, giving the Green Line the exclusive right to ship oil from Olean over their road. I asked him if he meant to give me to understand that his road, as a common carrier, had no right to ship this class of freight over its tracks if I furnished the tank cars. He said that it amounted to that; I might put it in any shape I chose, but that is what it amounted to.

Q. Did he give any reason for it other than the existence of the contract; did he give any other business reason?—A. I asked him if the Standard Oil Company shipped any crude oil from Olean over his road to Buffalo, and he said that they did not. I asked him what right, then, the Standard Oil Company, if they did not patronize his road, had to dictate that I could not patronize his road. He said the Standard Oil Company gave them large freights outside of the oil business, and they

were so strong they could not be ignored in these matters. I undertook then to arrange with the Rochester and Pittsburgh road, and came to New York and saw Mr. Walston Brown—I believe he was the president of the road—and he talked very pleasantly with me. He said they would be glad to do our business, and asked me what rate I wanted. I told him I thought 10 cents would be a very reasonable rate; we could pay that; we had formerly obtained it at that rate from the pipes. He asked me if we would furnish the tank cars. I said we would prefer that the road would do it. He said they would be glad to furnish the tanks, and that he would meet me in Buffalo the following week. The following week he came to Buffalo, and I sought an interview with him, and hardly succeeded in getting one. He told me that the matter had been turned over to the general superintendent or general freight agent, and that I would have to see him. I asked him if he was going to carry out the understanding and agreement that he made with me in New York. He said that they were not situated in regard to oil matters just as he had supposed they were. I sought frequent opportunities to talk to Mr. Merchant about it, but it resulted in the practical denial on their part to ship crude oil to me, by reason of their connection with the Erie road and other interests that were in harmony with the Standard. One reason he alleged was that they were using the same bridge at Kinzua, I think, with the Erie people, and if they did not harmonize with the Erie in oil matters they might be denied the use of this long and expensive bridge. From time to time various local freight agents came into my office to solicit business, and I invariably asked them to ship our crude oil, and they usually were delighted with the prospect of a good paying business, and invariably would come back in a few days and say they were mistaken as to the desire of their company to do that business.

Q. Up to this time of which you speak, state whether or not you found it possible to get a steady supply of crude oil for your refineries.—A. I found it impossible. I might say this conversation I had with Mr. Walston Brown was prior to the final refusal of the Buffalo, New York and Philadelphia to do this business.

Q. That is, it was prior to your interview with Mr. Johnson?—A. Yes, sir.

Q. Now, then, what other methods, if any, did you take in order to obtain oil?—A. Finding myself blocked in these matters in obtaining crude of good quality, I entered into relations with a company building a refinery at Oil City, known as the Keystone, formerly known as the Eclipse, but afterwards the Keystone. This company had a pipe line, in main line and in feeding lines, of perhaps 50 miles.

Q. To where did that main line lead?—A. It delivered oil to Oil City, Pa., and obtained it from the Tarkill and the Cogley Run district about Oil City. This pipe line cost about \$70,000, and earned a net profit of about \$40,000 in the first six months of its operations.

Q. What was the charge for the use of the pipe line in order to make up this profit? What sum did you use as the amount charged for the use of the pipe?—A. Twenty cents.

Q. The same as the other local lines?—A. I think part of the time there was some concession made, so that we pumped it a little less than that, but I can not say how much less. After our line began to get this oil the Standard people discovered the oil was more valuable, and offered a premium of 15 cents on this oil we were buying from the producers. We were shipping oil to Buffalo for my company's business. This Keystone Company was made up of several interests, in-

cluding Clark, Warren, Corry, and Cleveland, and Oil City had more interest in it, besides individuals outside. We found very great difficulty in bringing our oil from Oil City to Buffalo, it usually taking three or four weeks for a car to make a round trip from Buffalo to Oil City, a distance of 140 miles.

Q. Whose cars were those?—A. Mostly cars belonging to the Keystone Oil Company.

Q. Did you keep a record at any time of the period occupied for a round trip of these cars?—A. We had such a record at Buffalo.

Q. From the best of your recollection, how long did it often take for a car to make a round trip?—A. The average would exceed three weeks.

Q. For a haul of about 120 miles?—A. No; 140 miles.

Q. That is, a round trip of 280 miles?—A. Yes, sir.

Q. What became of the Keystone?—A. It was ruined by reason of its inability to handle its oil and market its product over the railroad and steam-boat line. In shipping oil from Buffalo West, I found that after the passage of the interstate commerce law the boats on the lake doubled their freight between Buffalo and Chicago and Milwaukee and Detroit, and those points which amounted to a doubling of the rates, and the rates were also advanced by land-carriage.

Q. Were those boats run in any way in connection with the railroad company?—A. Nearly all the boats on Lake Erie are owned by the railroad company. All the principal lines have a line of boats; the New York, Erie, Pennsylvania, Lackawanna, Grand Trunk—every road of any importance has its line of boats.

Q. You found after the passage of the interstate commerce law that the boats on the lake doubled their rates?—A. Yes, sir.

Q. Now, were the rates on the railroad made to be identical with the rates on the boats? Do you remember that?—A. They were nearly so.

Q. Was the advance made simultaneously or nearly so?—A. It was to us; yes, sir.

Q. Now, did you make any—A. I might say here that the rates were not quite doubled in car shipments, but they were doubled and more than doubled in 10-barrel and smaller shipments.

Q. Did you make any effort to get a place in Chicago to barrel oil in car tanks?—A. Yes, sir; last summer I spent a good many days in Chicago trying to make an arrangement to lease grounds of railroads, and I was unable to do so.

Q. To how many railroads did you apply for that purpose?—A. I think three or four.

Q. Can you give us their names?—A. I applied to the Pittsburgh and Fort Wayne, to the Chicago and Atlantic, and to the Michigan Central. The Pittsburgh and Fort Wayne have leased their ground and given exclusive privileges to parties who were shipping oil in connection with the Standard.

Q. Had any others given such exclusive privileges to the Standard Oil Company?—A. They did not so claim or admit.

Q. Is it a fact to your knowledge that the Standard Oil Company has in Chicago a place connected with the railroad system of Chicago, at which they barrel oil that comes to Chicago by tank cars?—A. They have such places; yes, sir.

Q. In connection with which railroads?—A. I understand it to be in connection with the Michigan Southern, but I would not be positive.

Q. It was the Pittsburgh, Fort Wayne and Chicago you said that had made exclusive arrangements with people connected with the Standard?—A. Yes, sir.

Q. Did they say that to you and make use of that as a reason why they could not give you facilities?—A. They said they had leased the grounds and asked me to go and see the parties to whom they had leased and try to make arrangements with them. I did, and was unable to make arrangements.

Q. These parties you say were in the interest of the Standard Oil Company?—A. They were receiving oil from the Standard Oil Company.

Q. Have you any means of knowing, or have you devoted any time to the examination of the subject of how many independent refineries are now in existence in the United States that are not in any manner affiliated to or connected with the Standard Oil Trust or its people?—A. I have considerable knowledge on that subject.

Q. Have you any statements or lists of them?—A. I have not. I have seen the list that I understood was furnished by Mr. John D. Rockefeller. That list I considered very incorrect and misleading.

Q. Do you refer to the list that Mr. Rockefeller furnished under examination before the Senate committee of New York?—A. Yes, sir.

Q. In what respect do you consider it misleading?—A. Some of the companies put down as independent have contracts and affiliations with the Standard which amount to their being under the Standard's control, and some of the companies put down as independent are not in operation at all, and have not been for some time.

Q. Could you take up that list and mark opposite each one any facts you know with reference to whether they are under Standard control, or whether the Standard Company has interest in them, or whether they are out of business, and how long they have been so out of business?—A. I can do it so far as I know the condition of things.

Q. So far as your knowledge extends?—A. Yes, sir.

Q. Will you do that to-day or to-morrow?—A. Yes, sir.

Q. Now, you have had something to do with natural gas, the distribution or delivery of natural gas in Buffalo?—A. Yes, sir; I was one of the incorporators of a company that sought to bring natural gas to Buffalo to cheapen our fuel.

Q. What was the name of that company?—A. It was called the People's Gas Company.

Q. Did you make any efforts to secure the right of way along the railroads to lay these gas lines?—A. Yes, sir; we sought permission to lay our line along a branch of the New York Central and run from Buffalo to Dunkirk; also along the line of the Buffalo, New York and Philadelphia and were denied in each and every case. We asked the franchise of the city to lay lines in the city, and we were told that, being an independent concern, we could get the franchise for the city for \$60,000.

Q. To be paid to the city?—A. No, sir; we did not so understand it; to the parties having the city matters in charge. We failed to get the franchise. The Standard people got it by their superior commercial skill which Mr. Archbold has mentioned here.

Q. Did the Standard Oil Company then secure the right of laying the pipe lines along the streets?—A. Yes, sir.

Q. In the name of what corporation is that right exercised; that is, the Standard Company? What is the name of the company?—A. I can not give the definite name of the company. It was understood that the Standard owned and controlled this line leading to Buffalo, but there was a local organization getting up in Buffalo, of which Mr. O'Day was the head. Its stock was distributed among the Standard

men and newspapers, and the relatives of some aldermen had this stock; and it was placed where it would do the most good in progressing the work.

Q. Now, did the Standard Oil Company, or the corporation that is in the Standard Oil Company's interest and owning this natural gas-pipe system, secure the rights of way along the railroads?—A. That I do not know. They crossed some of the roads, and I never heard of any disagreement between them as to any rights that they desired to have.

Q. You have stated that, when the Atlas Company first attempted to lay its pipe, the Erie Railroad Company refused it the privilege of crossing its line of railroad with the pipe?—A. Yes, sir.

Q. They proposed to cross underneath and bury it out of sight?—A. Yes, sir.

Q. State whether or not the railroad company has given the right of way to the Standard Oil Company, or interests affiliated therewith, to lay their pipes either crosswise or longitudinal along the lines.—A. It has given such rights of way.

Q. You have stated in your conversation with Mr. Johnson that you told him that you were suffering from a scarcity of cars, and that you were receiving oil from the Olean region?—A. Yes, sir.

Q. State whether those two statements which you made to him were facts; whether they were true?—A. They were facts.

Q. You have been interested in some criminal proceedings for conspiracy, I think, against some people connected with the Standard Oil Company in Buffalo?—A. Yes, sir.

Q. State when they were commenced, what they were for, and what the result has been, as nearly as you can give it to us.—A. Five of the Standard officials were indicted in September, 1885, charged with a conspiracy to injure trade and commerce.

Q. Who were they? Can you give us their names?—A. John D. Archbold; Henry H. Rodgers, of the firm of Pratt & Rodgers, New York; Ambrose MacGregor, Hiram B. Everest, and Charles M. Everest, the latter two gentlemen being the executive officers of the Vacuum Oil Company, one of the Standard Trust Companies, and located at Rochester. The overt act alleged was the employment of the superintendent of our works to blow up our stills and burn up a quantity of oil. We paid this superintendent \$100 a month for work, and they paid him about \$4,000 and expenses; and after he ran away from our place they secreted him in Rochester, Boston, and California. Those facts were proved on the trial. We also charged them with preventing us from obtaining crude oil for the supply of our factory and from obtaining shipments of refined oils away. It was also proved on the trial that they employed detectives in our refineries. One man we were paying for doing work in the refinery—cooperage and such work—they paid him more money for spying than we paid him for work. He was some time in our employ, and made his report to Mr. Dodd, the author of this book which has been used here in evidence, and he got his pay from Mr. Dodd. It was so shown at the trial. Two of these gentlemen were convicted.

Q. Which two?—A. Mr. Hiram B. and Charles M. Everest. They were convicted a year ago this month, and no sentence has yet been passed upon them.

Q. In what court were they convicted?—A. In the court of oyer and terminer.

Q. Of what county?—A. It is called the supreme court, New York State, and the county of Erie, New York.

Q. State whether or not this superintendent, whom you say they se-creted for some time, returned, and whether his testimony was used in this case?—A. Yes, sir; he returned and told where he had been and whom he had talked with, and what led him to this perfidy regarding my company and its men, and he testified to the facts which led to the conviction of these men, which was corroborated by numerous other testimony.

Q. What became of the other three defendants who were not convicted? Were they acquitted, or put on trial?—A. They were put on trial and excused by the judge.

Q. Was a nolle prosequi entered as to them, or did the jury acquit them?—A. They were not given to the jury. They had admitted to the hiring of these men and to certain things in their answer to a civil complaint which was relied upon as evidence to convict them. But when the trial had begun it was found there was some State statute which barred us from using this admission on their part. I think they were excused by the judge.

Q. And they were not acquitted by the jury?—A. No, sir.

Q. Now, outside of what was proved in the case, any allegation in the case, I want you to give us from your actual knowledge what occurred in your refinery, what act was done towards blowing it up, and just describe how it was discovered, what fire there was and what injury, if any.—A. The first still that was run at our refinery was run by this man whom they had corrupted, and he weighted down the safety-valve on the still with very heavy weights, and immediately when he began to fire the still he ordered an intensely hot fire, so that the front portion of the furnace was red hot. He used very strong language to the men firing the still, who were ignorant men, not acquainted with this business at all, and told them to make it very hot, and said that they did not fire it as hot as they should; and when it was extremely hot, he went over into an adjoining factory and remained there for some time. The still being new, the weights were not sufficiently heavy to keep down the safety-valve entirely, and it allowed some of the vapors and gases to escape.

Q. Notwithstanding the weights on the safety-valve?—A. Yes, sir; and fortunately the wind was in the right direction to take these gases away. The contents of the still were destroyed and had to be thrown away, and the walls of the still itself were injured.

Q. How many barrels would such a still contain?—A. Two hundred barrels.

Q. About 1,000 gallons?—A. Thereabouts.

By Mr. SMITH:

Q. If that still had exploded would any lives have been lost?—A. That would almost certainly have been the case—men were working all about there.

Q. At what pressure were those safety-valves generally kept so as to permit the escape of the vapors and gases? How much pressure per square inch do you expect to carry in your still during the process of distillation, or refining, or whatever you call it?—A. I should think about 20 or 30 pounds.

Q. What rate of pressure per square inch do you think it took to raise the safety-valve after it had been weighted down?—A. I do not know; they were heavy weights, and I could not say as to that; I was not there myself.

Q. You saw it afterward, did you?—A. Yes, sir.

Q. Did this man who had been your agent admit on the trial of this case that he had been employed to do this or hired to do it by some of these defendants?—**A.** Yes, sir; we subpoenaed the books of the Vacuum Oil Company to show the payments of money, and they refused to bring the books, but sworn statements were made, showing that the Vacuum Oil Company had paid this man various sums of money amounting in expenses and salary to between \$3,000 and \$4,000.

Q. Did you have the testimony of those firemen that were ordered to fire up taken in this conspiracy case?—**A.** Yes, sir; that was taken at the trial.

By Mr. BYNUM:

Q. Was that testimony preserved, Mr. Matthews?—**A.** Yes, sir.

Q. Is it on file in the case?—**A.** The district attorney has all the testimony taken in the case. I might say that this man was secreted in California, and his wife did not know where he was, and in order to communicate with him she had to go to the Standard Oil Company's office in Rochester to send and receive messages from her husband.

By Mr. GOWEN:

Q. Was that shown on the trial?—**A.** Yes, sir; all those matters and very many more that I can not name here.

By Mr. SMITH:

Q. Are you sure that this Standard Oil Trust has a corps of detectives?—**A.** It was so proven in this case—private detectives.

Q. Do they ever employ armed men?—**A.** Yes, sir.

Q. Where have they been employed?—**A.** Men have come to our works in their employ, and tried to get admission on Sunday, and at other times when the works were not in operation, and have claimed that they were armed. That is all I know about it.

Q. Have you any knowledge that the Standard Oil Trust ever employed Pinkerton's men?—**A.** I have no knowledge on that subject.

Q. I understand you to say that the Standard Oil Trust has a natural-gas line to Buffalo?—**A.** Yes, sir.

Q. Has gas been cheapened any to the consumers?—**A.** Well, this is the only line that goes to Buffalo. Fuel has been increased in price ever since the natural-gas line came into Buffalo.

Q. What kind of fuel?—**A.** Coal; since the natural gas came there we have paid higher for coal than at any time in the last ten years.

Q. Are you still paying that?—**A.** Yes, sir. It was claimed that the admission of natural gas would cheapen fuel in our cities; but over a year's practical operation has shown that coal has advanced in price.

Q. Was there any other cause than what you have mentioned to enhance the price of coal? Was there a less output?—**A.** Our railroads have charged 30 cents per ton more for coal to be used in Buffalo than coal to be re-shipped to Canada and other points. I brought this matter up in our board of trade recently, and the railroads have, as I understand, issued an order now so that persons using coal in Buffalo will get the same freight rates as charged on coal to be shipped elsewhere.

Q. How long since you brought this before the board of trade?—**A.** About two weeks.

Q. Is the natural gas used the same as manufactured gas for illuminating purposes?—**A.** It is in many cities, but there was an agreement made in Buffalo that natural gas should not be used for illuminating purposes, and by that agreement the old gas companies were not hostile

to the natural-gas company in getting their rights of way. They harmonized with them.

Q. What is the natural gas used for then?—A. Natural gas in Buffalo is used only for household purposes. Factories are not permitted to use it. There may have been one or two factories that have used it in Buffalo, but I think there are none now. The fuel the factory people are desirous of introducing in Buffalo for manufacturing purposes is this Ohio crude oil.

Q. Then they do not furnish gas for manufacturing purposes for the reason that they want to get their crude oil from the Lima district into the manufactories?—A. I so understand it. I would like to say that natural gas is used, and has been used, as fuel in Titusville and Oil City and other cities, and a year ago the independent refineries during the early part of winter, when the demands were the greatest for manufactured oil for burning purposes, the Standard shut off their supply; while at the same time the Standard were supplying natural gas to their own oil refineries, and these independents were subjected to hardships by refurnishing their furnaces to use coal and other fuels that they might obtain.

Q. Can this gas be used for manufacturing purposes; that is to say, for raising steam?—A. It is considered very valuable fuel for steam purposes.

Q. And they only use it in Buffalo for household purposes—cooking, etc.?—A. That is the only way that it is used that I am aware of.

Q. You stated in your testimony that the powers that were in Buffalo wanted a bonus of \$60,000 for the permission of laying the pipes in the streets, did you not?—A. Yes, sir.

Q. Were some of those gentlemen directly connected with the city government?—A. Yes, sir.

Q. Can you state in what capacity?—A. As members of the Buffalo common council.

Q. In your capacity of citizen of the State of New York is that the usual practice of getting franchises?—A. I understand it is necessary to furnish an inducement to get a franchise, any valuable franchise.

Q. Are you aware that the Standard Oil Trust has any interest in the Colgate Soap Company of New York?—A. They have an interest in that company.

Q. How do you know that?—A. By the testimony of members of that company and associated interests.

Q. Where was that testimony taken?—A. In New York.

Q. By whom?—A. Well, I do not know the name; it was by a commission.

Q. Authorized by the State of New York?—A. It was taken in a patent litigation which my company had with these Standard Oil interests. That recalls to my mind that when I began the manufacturing of oil the Standard interests brought suit against my company on four or five United States patents, and that to my knowledge there are several thousand patents, or more than one thousand patents, relating to manufactures of oils and greases, and a good many of these are under the control of the Standard. They said they would sue us once a month, and if that did not break us up they would sue us once a week on these patents. These suits were finally brought to a determination, and they all resulted in favor of my company—the defendant company—except one, and in that they got a master and obtained nominal damages of 6 cents. These litigations cost me \$25,000 or more to defend them.

Q. And from that you discovered that they had an interest in the Colgate Soap Company?—A. Yes; they and the Cheesebrough Manufacturing Company.

Q. What does the Cheesebrough Company manufacture?—A. Vaseline, cosmoline, and various products of that character.

Q. Can you state if Armour, Fairbanks, Washburn, and Pillsbury are interested with the Standard Oil Company?—A. Only as they are associated in railroads in common with these men.

Q. Armour and Fairbanks are of Chicago, are they not?—A. Yes, sir.

Q. Where are Washburn and Pillsbury located?—A. Pillsbury is in Saint Paul or Minneapolis.

Q. Minneapolis, is it not?—A. Yes, sir; I think so.

Q. What is his business?—A. He is a manufacturer of flour.

Q. What is Mr. Washburn's business?—A. Manufacturer of flour.

Q. You say they are merely interested with the Standard Oil Company in transportation. What interest is there between flour and oil in its transportation?—A. The company that gets the advantage in transportation secures a monopoly of the business. That is all I know about it.

Q. What has flour to do with the Standard Oil Trust transportation?—A. Nothing that I know of, only their officers are associated in the same railroads.

Q. Then it is by mutual association in transportation companies where they meet?—A. That is as far as I can trace the relationship.

Q. Armour is a heavy dealer in oil, is he not?—A. Yes, sir.

Q. Have you any knowledge of the Standard Oil Company being interested in slaughtering and packing meats?—A. I have no direct knowledge of that fact.

Q. It is only hearsay?—A. Nothing but circumstances that point in that direction. I wish to say in regard to my company that our business has been destroyed, and that the Buffalo Lubricating Oil Company, of which I was the president, is not doing business; they have been crushed out. The business I am now doing is principally a mercantile oil business, and not connected with the deceased company.

Q. How were you squeezed out?—A. Well, I have given some of the principal methods here. I might say further that I have found oil selling very cheap where there was competition; I have found that a very good quality of oil must be made to sell in competitive markets; I have found that where there was no competition prices were very high, and that a very poor quality of oil was being used; and I have found that by the Standard's controlling more than half of the territory of the United States, so that independents could not ship there, they have been able to reap such large profits in those districts that they could sell where there was competition at a point below the cost of manufacturing for the purpose of destroying the competitor.

Q. Let me go back to one question I asked you some time ago. In the patent suits you had with the Standard Oil Trust could you furnish this committee with that part of the evidence that connects the Standard Oil Trust with the Colgate Soap Company?—A. I suppose I have that testimony in the records. If I have, I can furnish it with pleasure.

Mr. SMITH. I will refer that to the counsel if he wants it.

By Mr. GOWEN:

Q. Will you send that evidence, or an extract bearing upon this point?—A. I will send any of the testimony in those various suits that you may desire.

Q. I only want the part bearing upon the Standard's connection with the Colgate Soap Company.—A. I will send it, sir.

Q. You stated that on these numerous patents that were outstanding for processes connected with the refining or manipulation of products of petroleum, the great number of which you thought the Standard Oil Company had, that there had been a threat of suing you once a month, or once a week if necessary, in order to squeeze you out. How did you find that out? What evidence did you have on that subject?—A. I proved that by a witness as having been said by Mr. Charles M. Everest, one of the convicted parties in this matter.

Q. Was it in that criminal suit you spoke of or in another?—A. That was proven in a civil action which our company brought against these men for conspiracy and destroying our business.

Q. Is that action still pending?—A. There has been a decree of court sued out; it is not settled. I would like to say, in regard to the pipe-line system, that the Standard Oil Company, nor any prominent man in the company did not invent the pipe-line system. The first pipe line was built at _____ by a man who was a very large manufacturer, and he has been beggared by Standard tactics. The first long line in the country was opposed thoroughly by Standard people. Their piping interests have come to them through the ideas and energies of other people.

Q. Can you give us the name of the first person who successfully laid pipe for carrying oil?—A. His name is Samuel Van Sickles; he now lives in Buffalo. He laid a pipe of five miles to Titusville, and was so taunted and jeered at by men of his time that he had to take his meals at the back door of his hotel. He worked along amidst the ridicule of his associates.

Q. In what year was the first pipe line laid?—A. Well, I can not give you that; it was prior to 1870.

By Mr. BUCHANAN:

Q. You spoke about your attempts to lay a pipe line, or a line for conducting natural gas from the gas fields to Buffalo, and you spoke about your being hindered in that work by successive injunctions, and I inferred from what you said that you have arrived at the conclusion in your own mind satisfactorily that those injunctions were at least sought to be obtained by the Standard Oil Company or in its interests. It would assist this committee somewhat if you were able to give us the definite circumstances upon which you base that conclusion.—A. The laying of this line was progressed by the Atlas Oil Company, a company that I was associated with.

Mr. GOWEN (to Mr. Buchanan). You ask about gas.

Mr. BUCHANAN (to the witness). I said gas, but in recalling the testimony I think you spoke of oil. However, it was a pipe line of some sort.

The WITNESS. Regarding this oil line, I want to say that the knowledge I have of that—perhaps the most direct knowledge—is that Judge Barker, one of the judges of our supreme court, in his decision in the case where this matter was litigated, charged the Erie Railway Company and the Standard Oil Company with having—I think he used the word “infamously”—opposed the laying of this line. It was some such expression as that which occurred in his decision in the judicial determination of these matters.

Q. I am speaking now of the laying of the successive injunctions.

Do you refer to a decision of Judge Barker in one of those injunction cases?—A. Yes, sir.

Q. Can you furnish the committee with a reference to that decision?—

A. I think I can.

Q. You spoke of another matter which, while it is not directly in the line of inquiry of this committee, may in the broad scope of the resolution, be considered as at least subsidiary, about a price which was demanded for the franchise in the city of Buffalo. What definite information have you about that? How far at that time was the city government of Buffalo under monetary influence, to state it mildly?—A. It was very deeply under such influences.

Q. But what definite information have you that this company would be compelled to spend \$60,000 in order to obtain the franchise?—A. The attorney of our company so informed us.

Q. His name, please.—A. His name was James F. Gluck; and also conversations with various citizens closely connected with the common council, and remarks from members of the common council pointing in that direction.

Q. Remarks heard by yourself?—A. Yes, sir; in some cases.

Q. Well, did you make any further effort, after ascertaining the state of the market for franchises, to obtain one?—A. I think we subsided about that time. We argued the matter, however, as well as we could. I might say that a gentleman received a \$1,000 check as a retainer to make an argument before the committee from the Standard Oil Company, and it has been so proven; and it was not a very able argument either, so far as I could judge. This attorney's name was Henry W. Box, the attorney who testified that he received the \$1,000 check. He is attorney for the gas-light and street car companies, and various other city institutions.

Q. The trial for conspiracy of which you speak I remember reading about in the newspapers at the time, and my impression is that the indictment was nolle prossed as to the other defendants, on the ground that the testimony in support of the indictment was not sufficient to warrant the case going to the jury in regard to those defendants. Is my recollection correct or not?—A. It is substantially correct. I recall now that the judge charged the jury that they must acquit. So that, although I said the jury did not hear the case, they did in that way.

Q. Under instructions from the court?—A. Yes, sir.

Q. You stated that the others were not yet sentenced. Were any of the numerous appeals and counter appeals, and proceedings and supplementary proceedings, etc., which seem to be incident to practice under the New York code, resorted to in their cases to prevent a final judgment?—A. They asked the judge holding the court at the time of their conviction for a stay of, I think, sixty days, and subsequently they asked for a new trial, and quite a time subsequent to that the motion for a new trial was denied; and that is as far as the proceedings have gone.

Q. The point of my inquiry is this, has the case been returned to the judge, before whom they were convicted, for final judgment; and, if so, is that judgment still withheld?—A. The judge told me only a few days ago that they would be arraigned for sentence shortly. I do not know the processes by which it is brought up.

Q. That is the specific fact which I wanted to know.—A. I might say that in our State a conspiracy of this kind, no matter how hei-

nous, is considered a misdemeanor, and the extent of the penalty is very light.

Q. But the point of my inquiry was whether an appeal had been taken which precluded the judge before whom they were convicted from passing sentence; and I suppose you are not familiar enough with those proceedings to tell me?—A. No, sir.

Q. You spoke about your efforts to obtain in Chicago some ground, by renting, for your purposes, and that you were referred to parties to whom the railroad companies had already leased the ground, and you were prevented from obtaining it. Was there anything to prevent your obtaining other ground in Chicago that would answer your purpose; and, if so, what?—A. The ground, to do us any good, would have to be on a railroad, so that we could bring oil in bulk and barrel it. What I desired to do was to get a position where I could barrel oil and handle it in the same manner that the Standard Oil people were doing.

Q. Now, if you will answer this question, you will have answered my former question. Was all the ground of that character already leased out to other parties, and did those parties refuse to allow you to obtain any of it?—A. All the ground that I was able to hear of that was adapted to my purposes was already leased.

Q. Of course the committee desire to know, to exactly what extent business men are circumvented from entering into competition with this Standard Oil Trust, and it would assist us materially if we could have the definite facts as to the amount of effort put forth by these men to obtain facilities for such competition. Now, to what extent did you put forth such efforts in Chicago?—A. Well, I spent a week or ten days there and in that vicinity, and also sent men to New York to treat with parties in New York that assumed to control the Chicago and Atlantic, and talked with local parties. I went to Cleveland several times and talked with a man there by the name of Cochran who was connected with this Erie system; and we spent considerable time and money all through the past year in our endeavors to get facilities from the railroads for doing our business.

Q. And with the result you have stated?—A. Yes, sir.

By Mr. BYNUM :

Q. What are the rates at which natural gas is furnished in Buffalo?—A. Twenty cents a thousand feet.

Q. How far is it brought there—about 40 miles?—A. I suppose that it is brought from the Bradford oil districts or that vicinity, and it is brought perhaps 80 miles, but the lines supply other towns on the way to Buffalo.

Q. Is that the stipulated price in the ordinance, or is there any?—A. The price in the ordinance, as I recollect it, was that they should not charge to exceed 75 cents a thousand feet. The mayor asked to have stipulated that they should not charge to exceed 60 cents or thereabouts, and the Standard refused to accept it on those terms, claiming that it would be restricted, that it would be severe on them. The mayor desired that they should furnish the city free as they had furnished other cities, or nearly or substantially free. The grant was finally passed over the mayor's veto.

By Mr. SMITH :

Q. At 70 cents?—A. It was 75 cents.

Q. But there was a limit set?—A. Yes, sir.

Q. And you stated they charge 20 cents now?—A. Yes, sir; and it has been found to be more expensive than coal at \$6 a ton or \$5.50.

Q. How is that?—A. Well, requiring more money to pay for the fuel to secure a given amount of heat. The coal price has advanced \$1 a ton since the gas was admitted there, or in the neighborhood of \$1 a ton.

Q. Is that hard or soft coal?—A. Hard coal I speak of. Soft coal has been higher; that is, I have had to pay more this winter than before the natural gas came into Buffalo.

Q. What did you state the price of hard coal is in Buffalo?—A. The last I paid was \$5.75 per ton for hard coal.

Q. Is that a gross or net ton?—A. Well, it claims to be 2,000 pounds.

By Mr. GOWEN:

Q. Did not you state that in this criminal suit the judge held that under a statute of New York the testimony taken in a civil action which connected some of these defendants with this transaction could not be offered in evidence to convict them?—A. No, sir; I said that the answer which Archbold, Rogers, and McGregor had made under oath in one of our civil cases—that that could not be read in evidence against them in a criminal proceeding.

Q. That it could not be?—A. Yes, sir.

Q. Why?—A. Because the statute forbade it.

Q. That is, there was a statute of New York which forbade the reading of an answer made under oath in a civil proceeding as against the same man who made it in a criminal proceeding?—A. Yes, sir.

Q. Do you know when that statute was passed?—A. I do not; but the district attorney relied upon this as proof conclusive, and that dropping, we had not time to gather other proof which we would have produced if we had known about this.

By Mr. BYNUM:

Q. How is the gas in Buffalo measured; through meters?—A. Yes, sir.

Q. Have you had any experience in the use of gas from meters at 20 cents a thousand?—A. I have never used natural gas in my house.

Q. And from what you learn from those with whom you are acquainted, at 20 cents a thousand through meters natural gas is as expensive as coal at \$6 a ton?—A. I have been told by a large number of consumers of natural gas that it is more expensive than coal at \$6 a ton for winter use; but for summer use, when only a fire of short duration is required, this gas takes the preference, as they can turn it off and on, and being measured by the thousand, they like it better for summer fuel.

Witness excused.

The following is the list furnished by John D. Rockefeller, president of the Standard Oil Trust, to the committee on general laws on the investigation relative to trusts and published by the New York legislature March 6, 1888:

List of outside refineries, January 1, 1888.

[The asterisk (*) indicates companies affiliated with the Standard; the dagger (†) indicates companies broken down and not doing business.]

Locality.	Name and owner of refinery.	Still.		Total still capacity.	Daily crude capacity.
		No.	Capacity.		
Cleveland.....	Excelsior Refining Co. †.....	2	250	500	250
	Faucet Refining Co.....	2	85	170	170
		2	400		
		2	100		
	S. Schofield & Teagle (Great Western Refinery).	8	75	1,850	1,400
		1	080		
		2	50		
		1	060		
		1	250		
	National Oil Co.....	1	80	410	285
		1	80		
		4	100		
	Cleveland Refining Co. (S. S. & T.).....	1	110	585	585
		1	75		
	Brooks Oil Co.....	4	80	320	320
	Vleit, Nutt & Co.....	4	100		
	Canfield Oil Co. (compounders).....	2	40	480	300
New York.....	Lombard, Ayres & Co.*.....	10	1,200	14,500	1,833
		5	500		
		4	1,100	8,400	2,433
	Ocean Oil Co.*.....	8	500		
	Borne, Scrymser & Co.....	8	350	1,330	200
		1	250		
Pittsburgh.....	Ran or Eagle Works.....	3	170	280	120
		1	150		
	Weisberger & Co. (Lima).....	2	75	150	150
		1	1,400		
	Miller Oil Works.....	2	250	2,175	500
		1	275		
		2	300		
	Waverly Oil Works (Wellock & Co.).....	2	35	670	370
		4	550		
	Bear Creek Refining Co.....	2	25	2,300	1,100
	Union Oil Works (C. J. Wilson)†.....	2	75		
Oil City.....	Iola Oil Works.....	2	75	150	150
	Globe Refining Co.....	10	550		
	Independent Refining Co.....	2	250	1,100	325
		1	600		
	Continental Refining Co.....	3	500	1,500	500
	Sterling Oil Works.....	1	400		
	Penn Refining Co.....	2	500	1,000	400
	Dewdrop Refining Co.....	1	35		
	Keystone Refining Co. (formerly Excel-	4	600	2,400	800
	sior).				
Astral.....	Astral Refining Co. †.....	1	280	780	310
		1	500		
Reno.....	Mutual Oil Co.....	2	500	1,720	453
		8	120		
	Empire Refining Co. (A. L. Confer).....	1	120	155	100
Franklin.....		1	35		
	Keystone Refinery†.....	1	10	180	70
		1	180		
	I. H. Fassett (Crescent Oil Works).....	1	75	75	75
	S. P. McCollinot (Relief).....	2	250		
		1	600	1,100	500
	Franklin Oil Works (Reamer).....	2	40		
		1	35	115	115
Buffalo.....	Globe Refinery.....	1	40		
		1	60	100	100
	Buffalo Lubricating Oil Works†.....	2	215		
	Holmes & Adams*.....	1	215	1,450	453
		1	250		
	(Holmes & Adams also have one 600 barrels lubricating, five 40 barrels tar.)*				
	J. C. Bright & Co., or Genesee Oil Works.....	1	540	750	450
Toledo.....		2	180		
	Toledo Oil Works*.....	2	250	50	80
Findlay.....		1	50		
	Peerless Refinery.....	1	200	975	487
		1	175		
Lima.....		2	300	1,950	975
	Eagle Consolidated Refining Co.....	2	225		
		5	300		

a These barrel stills are paraffine.

b Being built.

Continued.

Stills.	Capacity.	Total still capacity.	Daily crude capacity
125		125	70
15		15	10
40		40	40
15		15	15
15			
25		40	40
150			
405			
162		1,506	654
429			
150			
500			
250		950	391
200			
395		395	132
303		508	306
205			
143		800	156
80		160	160
36			
100		170	120
40		80	80
60			
60			
a 40		385	322
80			
125			
40		120	60
80			
90		90	90
400		700	275
150		450	112
225			
100		200	100
50			
600			
300		1,600	275
500			
100			
225			
100		875	175
50			
90			
150		300	100
60			
250		850	120
100			
85		135	60
50			
250			
815		2,015	1,000
850			
600			
250		500	250
250		500	250
125			
500		1,200	600
700			
920		1,645	822
175			
280			
a 140		780	360
500			
860		860	180
125		250	125
65		195	97
100		100	50
125		190	95
65			
1,000			
400		1,800	875
200			
80			
35			
150			
100			
250		546	296
46			

List of outside refineries, January 1, 1888—Continued.

Locality.	Name and owner of refinery.	Stills.		Total still capacity.	Daily crude capacity.
		No.	Capacity.		
San Francisco	Ventura Refinery.....	{ 1	80	130	90
	Seapo Refinery.....	{ 1	50		
	Martin's Refinery	{ 1	35		
	.....	{ 1	30	
Philadelphia	Chester Oil Co. *	{ 1	1,200	12,600	4,200
	.....	{ 3	600	
	.....	{ 16	600	
	Boeshart & Wilson.....	{ 1	220		
	.....	{ 1	215	
	Sunlight Oil Co	{ 1	125		
	.....	{ 1	350	
	Quaker City Oil Works	{ 1	100		
	.....	{ 1	800	
	Crew, Levick & Co. (Thurlow Seaboard Oil Works).	{ 2	100		
Florence, Colo.	{ 1	300	1,100	550
	Delaware Oil Co. (Lutz, Thur.)	{ 1	240		
	.....	{ 2	100	
	Philadelphia Lubricating Co	{ 1	250		
	Florence Oil Co	{ 4	85		
	.....	{ 2	65	
	United Oil Co	{ 2	70		
	.....	{ 2	78	
	.....	{ 1	75	
				
New York.....	Eastman, Mandeville & Co				(b)
	John Ellis & Co				(c)

Miscellaneous.

[This miscellaneous is of no account so far as refining oil is concerned, yet some of them sometimes do a little.]

Name or owner of refinery.	Stills.		Total still capacity.	Location.
	No.	Capacity.		
Kendall Refining Co.....	{ 1	90	340—215	Tarport.
.....	{ 1	250		
Sun Oil Works	{ 1	150		
Smith Bros	{ 1	60		
L. Dougherty	{ 1	16	150—75	Foxburgh.
Beck Bros	{ 1	100		
Braden & Jackson	{ 2	40		
.....	{ 1	50		
Globe Oil Works	{ 1	65	215—215	Raymilton.
.....	{ 1	100		
.....	{ 3	138		
.....	{ ?	65		
Clark & Warren†	{ 1	500	1,044—450	Corry.
Prospect Refinery	{ 2	15		
McGimpsey & Co. (Beaver Oil Works)	{ 2	60		
Scott Oil Co	{ 2	25		
Bolivar Refinery.....	{ 1	50	50—50	Industry.
Crystal Oil Works (Thomas F. Wright)	{ 2	100		
.....	{ 1	200		
Binghamton Oil Refining Co	{ 1	200		

a Being built.

b Brooklyn, on New Jersey side of North River.

c Elizabethport; run by A. E. Foster, 156 Maiden Lane, New York.

TESTIMONY OF SOLOMON HAAS.

SOLOMON HAAS, sworn and examined.

By Mr. GOWEN:

Q. What is your business?—A. I am traffic manager of the associated railroads of Virginia and the Carolinas.

Q. What system is that?—A. The Atlantic Coast Line, the Seaboard Air Line, and Piedmont Air Line, and Richmond and Danville.

Q. Do you remember an application made to you to name, in connection with some lines of the Baltimore and Ohio, a rate of freight on oil for a Mr. George Rice, of Marietta, Ohio?—A. Yes, sir.

Q. Can you remember what the rate was and where the shipment was to go to?—A. No, I do not remember what the rates were. I remember the shipments were to be made from Marietta to quite a number of points in our territory, but I have forgotten the points.

Q. What do you know about that rate having been given up, or abandoned, or withdrawn; and if so, by whose direction it was done?—A. I think Mr. Rice telegraphed me that the Baltimore and Ohio were refusing to continue to quote those rates.

Q. Will you look at that letter and see if that revives any recollection of yours upon the subject [handing witness letter]?—A. I think this was written before the rates were made.

Q. How long after the rate was made was it withdrawn?—A. I do not remember.

Q. Was it within a couple of weeks?—A. No, I think not; they ran several months.

Q. At whose suggestion was it withdrawn?—A. I do not really know that the rate ever was withdrawn. I simply understand from the correspondence between Mr. Rice and the Baltimore and Ohio road that they declined to work the rate any longer.

Q. They declined?—A. Yes, sir.

Q. You had no objection to the rate?—A. No, sir.

Q. You would have been willing to take the traffic?—A. Yes, sir; I think the reason alleged was something with reference to our not returning cars promptly, or refusing to furnish cars, or something of that kind.

Q. But you know that the rate was satisfactory to you, and that it was suspended at the suggestion of somebody else?—A. I do not know that the rates were satisfactory, but they were the best we could get, no doubt.

Q. And you were willing to take them?—A. Oh, yes; certainly.

Q. And you made no objection to the rate yourselves?—A. No, sir.

Q. And the oil had to reach your line over the other lines?—A. Yes, sir.

Q. You stated that it may have been several months after the rates were given that they were terminated. How long after the first shipment was made upon the rates were the rates withdrawn?—A. The correspondence will show it. I do not know that the rates have been withdrawn to this day. I think the rates are still there.

Q. But are not used?—A. There are no shipments made on them.

Q. How long did the shipments continue under those rates? Was it two weeks?—A. I do not know; I think the time was very short.

Witness excused.

TESTIMONY OF H. S. DEPEW.

H. S. DEPEW, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. In Saint Louis.

Q. What is your position?—A. Traffic manager of the Mobile and Ohio Railroad.

Q. How long have you been in that position?—A. Since October, 1886.

Q. Do you make rates over that road for freight traffic?—A. Yes, sir.

Q. Are you familiar with the rates on oil over your line from the time you became traffic manager to the present time?—A. I only know of their being made; I could not give you the figures.

Q. But you were subpoenaed to bring those figures.—A. No, sir.

Q. Have you your subpoena with you?—A. Unfortunately, I have not. It is at my hotel, but it does not mention rates. I did not understand that the rates were to be produced, and I did not therefore provide myself with them. I can furnish them.

Q. (Reading from copy of subpoena procured from another witness.) You were subpoenaed to show all shipments of oil, crude or refined, or products of petroleum, for the years 1886, 1887, and 1888; the rate of freight charged and received; the length of haul, and the rebate.—A. Mr. Layet, our comptroller, has those.

Q. They are here?—A. Yes, sir.

Q. Can you from memory give us a statement of what your rates have been on oil going south on the two methods of shipment, by barrels and tank cars?—A. They are both the same.

Q. Now?—A. Yes, sir.

Q. Have they always been the same?—A. Yes, sir.

Q. Per hundred pounds?—A. Yes, sir.

Q. Do you carry oil in tank cars at any other rate than at the rate per hundred pounds?—A. Kerosene, you mean?

Q. Petroleum?—A. I think not. We carry very little oil over our line. What little we do is received from other lines coming from Louisville and Cincinnati. We carry very little.

Q. And your rates are the same whether it is carried in tank cars or in barrels?—A. Yes, sir; locally on our road.

Q. How about other roads?—A. I could not tell you exactly. The figures will show that.

Witness excused.

TESTIMONY OF GEORGE LAYET.

GEORGE LAYET, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Mobile, Ala.

Q. What is your position?—A. Comptroller of the Mobile and Ohio Railroad.

Q. Have you a statement of the rates on oil on your road?—A. Yes, sir; I have a statement here of what I understand to be an answer to the subpoena.

Q. Will this statement show rebates, if any, allowed?—A. There were none paid.

Q. You treated everybody alike?—A. Yes, sir.

Q. And your rate was the same per hundred pounds in tank cars or in barrels?—A. Yes, sir; that is my understanding.

The statement produced by the witness, and marked for identification G. B. E. 1, is as follows:

[illegible]

Mobile and Ohio Railroad Company.—Statement of oil handled from January 1, 1893, to April 18, 1898, inclusive—Continued.

Date.	No. W. B.	No. car.	Whose.	From—	To—	Mile- age.	Consignor.	Consignee.	Articles.	Weight.	Rate.	Revenue.
1898												
March												
April	261	1978	S. W.	Rives	Pinson	142	W. C. Baekin.	C. W. Hooper & Co.	2 boxes marble	860	\$0.54	\$1.54
	485	5295	do	Humboldt	Landerdale	289	Lou, 1437	do	200 cases coal oil	23,800	.152	24.53
	688	942	do	do	Mobile	403	C. C. & Co.	Wm. Adair	32 barrels coal oil	13,425	.224	30.10
	113	5194	O. and M.	Rives	do	408	do	do	63 barrels coal oil	25,600	.178	44.35
May												
	195	4562	C. W. and B.	do	Landerdale	289	Lou, 774	Hooper & Co.	60 barrels coal oil	24,800	.152	33.06
	298	33123	B. and O.	do	do	289	385	{ Agt. C. S. and M. R. R.	{ 15 cases coal oil 50 cases coal oil	24,300	.152	26.21
	486	3383	M. and O.	do	do	289	2373	Hooper & Co.	{ 54 barrels coal oil 50 barrels coal oil	22,800	.152	23.94
June	825	5519	S. L. and P.	Cairo	Trenton	90	C. C. & Co.	C. C. & Co.	60 barrels coal oil	20,000	.22	44.00
	313	4919	C. W. and B.	Rives	Jackson	107	C. V. and C. 54	M. and O. R. R.	57 barrels coal oil	24,000	.....	D. H.
	122	5083	O. and M.	do	Landerdale	289	Lou, 3170	Hooper & Co.	{ 15 cases coal oil 100 barrels coal oil	22,800	.152	13.94
July	187	5752	do	do	Mobile	442	752	Brown & Brown	do	83,000	.387	35.70
	197	5182	do	do	do	442	780	Order Geo. Rice	do	23,800	.224	23.70
	208	do	do	do	Landerdale	289	1335	Brown & Brown	do	23,800	.152	23.94
	242	4569	M. and O.	do	Meridian	307	1849	Hooper & Co.	60 barrels coal oil	24,375	.30	73.13
					Various	35	1654	C. C. & Co.	65 barrels coal oil	24,375	.....	22.30
					do	200	do	Various	Merchandise	.....	.....	7.40
August	778	5326	O. and M.	Cairo	Whistler	483	do	do	60 barrels coal oil	24,000	.248	28.44
	948	2050	C. V. and C.	do	do	493	C. V. and C. 76	M. and O. R. Co.	50 barrels coal oil	20,000	.....	D. H.
	66	2145	S. W.	Louisville	Mobile	442	C. C. & Co.	do	{ 35 barrels coal oil 150 cases coal oil	24,000	.30	56.16
	106	5696	do	do	do	442	Marietta	Brown & Brown	60 barrels coal oil	22,800	.....	36.12
	119	4774	do	do	Various	50	do	do	do	22,800	.....	36.13
					do	50	do	do	Merchandise	.....	.....	32.06
September	183	1978	S. W.	Louisville	Meridian	307	C. C. & Co.	C. C. & Co.	65 barrels coal oil	24,375	.53	66.55
October	170	2108	do	do	do	307	do	do	{ 100 cases coal oil 50 barrels coal oil	26,250	.53	100.17
	227	1876	do	do	Mobile	443	do	do	do	24,975	.30	52.66
	197	3616	M. and O.	Cairo	Corinth	164	do	do	50 cases coal oil	24,000	.22	52.80
	383	4984	E. C. and St. L.	do	Jackson	107	Cleveland	M. and O.	65 barrels coal oil	24,700	.....	D. H.
	384	34253	L. V.	do	Mobile	493	Ind	Brown & Brown	do	24,700	1.165	38.61
	420	7238	P. C. and St. L.	do	do	493	do	do	{ 40 cases coal oil 57 barrels coal oil	24,700	1.165	38.61
	913	9562	do	do	do	493	do	do	100 barrels coal oil	38,000	1.178	60.30
	948	1758	G. R. and G.	do	do	493	do	do	{ 30 cases coal oil 170 cases coal oil	38,000	1.178	59.87
					Cairo	107	White & Co.	Bates Mfg. Co.	8 bales cotton	4,000	.35	14.00

November.	126	1666	S. W.	Louisville	Meridian	135	Various.	Various.	Merchandise.	6,500	20.60
	138	1655	do	do	do	307	S. O. Co.	S. O. Co.	{100 cases coal oil.	28,875	51.60
			do	do	Mobile	442	do	do	{60 barrels coal oil.	20,250	37.80
		5132	M. and O.	do	do	442	do	do	{24 cases coal oil.	22,500	32.40
	334	8123	U. T. L.	Cairo	do	493	C., V. and C., 30.	Brown & Brown.	{100 barrels coal oil.	38,000	60.80
	637	5246	M. and O.	do	Corinth	164	S. O. Co.	S. O. Co.	{50 cases coal oil.	24,000	52.80
	1243	2365	T., C. and St. L.	do	Mobile	498	C., V. and C., 97.	Brown & Brown.	{80 barrels coal oil.	38,000	59.67
	475	9468	C., V. and C.	do	Columbus	282	S. O. Co.	Morgan & Co.	{100 cases coal oil.	38,000	17
				do	Meridian	288	S. O. Co.	S. O. Co.	{100 empty barrels.	15,000	15.90
December.	558	1052	L. and N.	Humboldt	do	288	Lon., 644.	do	{40 barrels coal oil.	74,375	46.41
	66	2541	C. and G. T.	Louisville	do	307	S. O. Co.	do	{125 cases coal oil.	26,250	46.90
	64	1198	S. W.	do	Mobile	442	do	do	{110 cases coal oil.	22,500	45.00
	287	2575	do	do	Meridian	307	do	do	{307 cases coal oil.	22,500	43.20
	1048	9677	A. G. S.	Cairo	Mobile	493	C., V. and C., 74.	Brown & Brown.	{40 barrels coal oil.	38,000	59.67
1887.	1060	1066	M. and O.	do	Corinth	164	S. O. Co.	S. O. Co.	{60 barrels coal oil.	24,000	33
January.	1317	6494	P. Co.	do	Mobile	498	C., V. and C., 106.	Brown & Brown.	{80 barrels coal oil.	38,000	59.67
				do	Cairo	493	G. C. G. & Co.	Otis & Co.	{32 bales cotton.	14,625	20.96
	183	5365	M. and O.	E. St. Louis	Various	50	Various	Various	{Merchandise.		D. H.
	239	2198	do	do	Jackson	258	S. D. L. P. & F.	T. W. Newell	{40 barrels car oil.	15,750	D. H.
	849	3610	O. and M.	do	Whistler	639	I. O. & Co.	Tiedman.	{80 barrels car oil.	24,000	D. H.
	959	8543	M. and O.	do	do	258	I. St. L. and C., 83.	do	{15 barrels engine oil.	6,000	D. H.
				do	Jackson	509	S. L. & Co.	R. McKay & Co.	{20 sacks grain.	1,000	3.35
	168	1694	B., B. and I.	Louisville	Mobile	442	W. J. and J.	S. O. Co.	{67 barrels coal oil.	28,000	54.00
	294	1647	S. W.	do	do	442	S. O. Co.	do	{25 cases coal oil.	22,500	42.00
	114	19022	C., B. and O.	do	Meridian	307	do	do	{55 barrels coal oil.	28,125	54.00
February.	123	3555	M. and O.	Cairo	Trenton	79	do	do	{45 barrels coal oil.	20,000	60.00
	71	8475	W. N. and M. V.	do	Mobile	493	do	do	{50 barrels coal oil.	27,150	54.37
	88	1032	C., W. and M.	do	do	493	do	do	{64 barrels coal oil.	26,250	52.50
	177	961	O. & E. C. E. J.	do	do	498	do	do	{231 cases coal oil.	26,250	52.50
	225	827	C., W. and B.	do	Meridian	368	do	do	{150 cases coal oil.	26,250	70.00
	293	8638	M. V.	do	Mobile	498	do	do	{75 cases coal oil.	26,250	52.50
				do	do		do	do	{45 barrels coal oil.		
				do	do		do	do	{125 cases coal oil.		

C. B.

Mobile and Ohio Railroad Company.—Statement of oil handled from January 1, 1886, to April 13, 1888, inclusive—Continued.

Date.	No. W. B.	No. car.	Whose.	From—	To—	Mile- age.	Consignor.	Consignee.	Articles.	Weight.	Rate.	Revenue.
1887.												
February.					Cairo	493	G. C. and G. & C.	Lyman Mills	82 bales cotton	12,647	\$0.143	\$18.12
					Various	263	Various	ations.	Merchandise	7,660		9.10
March.					Mobile	403	Lou., 178	S. Oil Co.	1 tank	20,040		53.20
	143	2538	L. and N.	Humboldt	do	403	218	do	do	20,000		53.20
	284	2507	do	do	do	403	319	do	do	20,000		53.20
	285	2507	do	do	do	403	320	do	do	20,000		53.20
	286	25034	do	do	do	403	320	do	do	20,000		53.20
	287	25001	do	do	do	403	321	do	do	20,000		53.20
	288	25009	do	do	do	403	322	do	do	20,000		53.20
	289	2201	do	do	do	403	323	do	do	20,000		53.20
	290	2011	do	do	do	403	3 4	do	do	20,000		53.20
	680	25012	do	do	do	403	766	do	do	20,000		53.20
	681	2201	do	do	do	403	811	do	do	20,000		53.20
					Humboldt	403	S. Oil Co.	do	Empty tank			D. H.
					do	403	do	do	do			D. H.
					do	403	do	do	do			D. H.
					do	403	do	do	do			D. H.
					do	403	do	do	do			D. H.
					do	403	do	do	do			D. H.
					do	403	do	do	do			D. H.
	80	14038	B. and O.	Louisville	Meridian	307	do	do	100 cases coal oil	26,230	1.00	46.90
	217	1087	do	do	Mobile	442	do	do	50 barrels coal oil	21,500	.75	45.00
	279	6719	do	do	Meridian	307	do	do	50 cases coal oil	24,375	1.00	75.50
					Tupelo	144	do	do	59 barrels coal oil	21,000	.24	93.60
April.	14	8643	B. and O.	Louisville	Mobile	442	S. Oil Co.	S. Oil Co.	1 car oil	22,500	.75	30.15
	52	8765	C., C. and I.	do	do	442	do	do	120 cases coal oil	22,500	.75	30.15
	162	6638	L. N. A. and C.	Rives	do	442	do	do	70 barrels coal oil	26,250	.455	31.85
May.	246	8090	W. and O.	do	do	442	do	do	300 cases coal oil	22,500	.907	36.42
	292	6192	W. P. O.	do	do	442	do	do	60 barrels coal oil	24,375	.455	30.45
	178	8327	M. and O.	do	Trenton	79	do	do	50 barrels coal oil	20,000	.30	30.00
June.	178	8323	N. Y. and P. O.	Rives	Meridian	307	Lou., 138	do	60 barrels coal oil	21,375	.518	31.09
	65	33857	B. and O.	do	Mobile	442	1782	Brown & Brown	60 barrels coal oil	22,800	.907	36.42
	205	3543	M. and O.	do	Union City	46	S. Oil Co.	S. Oil Co.	53 barrels coal oil	26,000	.22	37.20
July.	10	4592	C. T.	Rives	Mobile	442	Lou., 2120	do	33 barrels coal oil	22,500	.607	36.58
	104	3583	M. and O.	do	Corinth	113	S. Oil Co.	do	32 barrels coal oil	12,800	.28	35.84
	110	8343	do	do	Trenton	28	C., V. and C. 3	do	28 barrels coal oil	11,200	.28	31.64
	*6	84378	B. and O.	do	Columbus	237	do	Moore & Cox	68 barrels coal oil	24,700	.25	143.26

STANDARD OIL TRUST.

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[illegible]

***C. B.**

STANDARD OIL TRUST.

Mobile and Ohio Railroad Company.—Statement of oil handled from January 1, 1886, to April 18, 1888, inclusive—Continued.

Date.	No. W. B.	No. car.	Whose.	From—	To—	Mile- age.	Consignor.	Consignee.	Articles.	Weight.	Rate.	Revenue.
1887. November.	110	8444	N. Y. and P. O.	Rives	Meridian	307	1278	S. Oil Co	{57 barrels oil.....}	27,000	.207	\$55.99
	150	8478	do	do	Mobile	442	1659	do	{25 cases oil.....}	85,000	.607	39.45
	180	2773	C. I.	do	do	443	1848	do	{275 cases cases.....}	24,375	.607	39.45
	93	20754	N. Y. and L. E. W.	Calro	Corinth	164	S. Oil Co	do	{10 barrels.....}	24,000	.27	64.80
	665	2700	P. and R. B.	do	Tupelo	214	C. V. and C. 31	Clark, Horr & Co.	{40 barrels.....}	23,800	.27	61.58
	888	5534	M. and O.	do	do	214	do	S. Oil Co	{55 cases.....}	24,000	.27	64.80
	1119	3568	do	do	Trenton	79	S. Oil Co	do	{17 barrels.....}	24,000	.23	52.80
	1428	3447	do	do	Okolona	281	C. V. and C. 7	do	{65 barrels.....}	24,000	.303	73.30
	*16	14567	R. and O.	do	Columbus	288	A. C. D	Moore & Cox	{35 barrels.....}	28,500	.305	86.53
					Meridian	141	Rolston, John.	Bessemer Mfg. Co	{62 shingles.....}	84,375	.50	19.39
					do			Dobois & Labo- niser.	{13 bales cotton.....}	6,500		36.00
	78	36844	do	do	Aberdeen	261	C. V. and C. 10	C. H. Eckford.	{50 barrels.....}	26,000	.30	81.12
December.	79	8602	M. and O.	do	do	261	S. Oil Co	S. Oil Co	{10 cases.....}	24,000	.30	73.20
	111	508	M. and C.	do	Union City	46	do	do	{61 barrels.....}	24,000	.18	43.20
	982	10084	do	do	Vernon	218	do	R. Clark & Son	{55 barrels.....}	24,000	.275	66.00
	983	5255	M. and O.	do	Tupelo	214	do	S. Oil Co	{20 cases.....}	24,000	.27	64.80
	989	934	do	do	Corinth	164	do	do	{45 cases.....}	24,000	.27	64.80
	1123	37380	N. Y., L. E. and W.	do	West Point	200	do	do	{58 barrels.....}	24,000	.27	64.80
	1842	1250	K. C., C. and S.	do	Trenton	79	do	do	{4 cases.....}	24,000	.305	73.20
	1849	474	do	do	Union City	46	do	do	{60 barrels.....}	24,000	.22	52.80
	1483	2569	M. and O.	do	Okolona	281	do	do	{58 barrels.....}	24,000	.18	43.20
	83	4304	G. C. and St. L.	Rives	Mobile	443	Lou. 87	do	{do.....}	24,000	.303	73.30
	158	8017	N. Y. and P. O.	do	do	442	586	do	{65 barrels.....}	25,000	.607	38.45
	801	3677	B. and O.	do	do	442	1234	do	{52 barrels.....}	26,800	.607	40.67
	456	4870	C. W. and B.	do	do	442	1531	Brown & Brown	{75 cases.....}	24,000	.607	38.42
	476	36732	B. and O.	do	do	443	2551	do	{26 cases.....}	24,000	.607	38.45
					do			do	{200 cases.....}	23,400	.152	36.87
	83	3500	M. and O.	Calro	Starkville	283	S. Oil Co	S. Oil Co	{50 barrels.....}	24,000	.152	36.87
									{24 cases.....}	24,000	.303	73.20

10	4053	C. W. and B.	do	Columbus	298	C. V. and C. 10.	Moore & Cox	75 barrels	28,500	.905	84.93
122	5407	M. and O.	do	Starkville	285	S. Oil Co.	S. Oil Co.	50 barrels	94,000	.905	73.20
59	29038	L. and N.	Humboldt	Mobile	403	Lon. 4938	do	1 tank	20,000	.....	26.40
602	29038	do	do	do	403	111	do	do	20,000	.....	26.40
94	29014	U. T. L.	do	do	403	176	do	do	20,000	.....	26.40
165	6646	L. and N.	do	do	403	168	do	do	20,000	.....	26.40
166	25002	U. T. L.	do	do	403	169	do	do	20,000	.....	26.40
167	5297	do	do	do	403	171	do	do	20,000	.....	26.40
168	6032	L. and N.	do	do	403	208	do	do	20,000	.....	26.40
200	29018	do	do	do	403	209	do	do	20,000	.....	26.40
201	32032	do	do	do	403	207	do	do	20,000	.....	26.40
202	25023	do	do	do	403	5028	do	do	20,000	.....	26.40
229	1718	do	do	Meridian	298	245	do	do	24,750	.....	51.88
404	1134	M. and O.	do	Mobile	403	521	do	do	24,375	.....	86.81
.....	.....	.....	.....	Humboldt	153	Howell, C. Co.	Various	42 bales cotton	21,000	.33	69.30
.....	.....	.....	.....	Mobile	275	C. & Jones	J. C. Bush	13 bales cotton	7,000	.205	31.50
.....	.....	.....	.....	East Saint Louis	315	Phillips & Bro.	Hill, F. & Co.	13 bales cotton	6,500	.225	29.25
.....	.....	.....	.....	Jackson	28	W. G. Hicks	Oil Mills	Car cotton seed	40,820	.275	23.47
.....	.....	.....	.....	Columbus, Ky.	25	D. B. & Co.	F. Smith & Co.	Car furniture	20,075	.46	7.45
.....	.....	.....	.....	East Saint Louis	437	Burris	Clark & S.	51 bundles hides	4,002	.....	18.53
188	5616	U. F. L.	Humboldt	Mobile	408	Lon. 137	S. Oil Co.	1 tank oil	28,148	.20	58.29
340	4016	do	do	do	408	267	do	do	27,845	.20	75.89
393	7334	M. and O.	do	Meridian	288	320	do	55 barrels oil	24,873	.40	97.50
538	6813	W. S. and L.	do	Mobile	403	473	do	1 tank oil	23,085	.20	46.16
483	5408	M. and O.	Cairo	Tupelo	214	S. Oil Co.	do	20 cases oil	24,000	.27	64.80
1036	16081	do	do	West Pt.	260	do	do	61 barrels oil	24,000	.33	79.20
541	5271	U. F. L.	Humboldt	Mobile	408	Lon. 474	do	62 cases oil	23,318	.20	56.03
85	5070	C. W. and B.	Rives	do	442	850	Brown & Brown	1 tank oil	23,400	.152	35.57
279	36798	B. and O.	do	do	442	1340	do	60 barrels oil	23,400	.152	35.57
280	470	C. W. and B.	do	do	442	1339	do	60 barrels oil	23,400	.152	35.57
52	15492	B. and O.	Cairo	Cols. Miss	288	C. V. and C. 47.	Moore & Cox	60 barrels oil	23,500	.75	91.05
.....	.....	.....	.....	Meridian	185	Radbury & B.	Fert'r Fao.	253 sacks guano	33,800	.....	20.28
1	12678	do	Rives	Mobile	442	Lon. 2033	Brown & B.	50 barrels oil	23,400	.152	35.57
270	1770	S. W.	do	do	442	1086	do	50 cases oil	23,400	.152	35.57
532	4651	C. W. and B.	do	do	442	2154	do	50 barrels oil	23,400	.152	35.57
372	5386	M. and O.	Cairo	West Pt.	280	S. Oil Co.	S. Oil Co.	65 barrels oil	24,000	.33	79.20
629	5032	do	do	Union City	46	do	do	60 barrels oil	24,000	.18	45.20

* C. B.

1888.
JANUARY

Mobile and Ohio Railroad Company.—Statement of oil handled from January 1, 1886, to April 18, 1888, inclusive—Continued.

Date.	No. W. B.	No. car.	Whose.	From—	To—	Mile- age.	Consignor.	Consignee.	Articles.	Weight.	Rate.	Revenue.
1888. February..	724	5160	M. and O.	Cairo	Tupelo	214	S. Oil Co.	S. Oil Co.	1310 cases oil	24,000	\$60.25	\$902.60
	870	8529	do	do	Okolona	231	do	do	20 cases oil	24,000	.82	76.80
	1142	540	do	do	Cerinth	164	do	do	58 barrels oil	24,000	.27	64.80
	1338	5261	do	do	Okolona	231	do	do	60 barrels oil	24,000	.82	76.80
	143	4424	do	Humboldt	Mobile	403	Lou. 131	do	1 tank oil	28,071	.....	76.14
	184	3872	do	do	do	403	Lou. 132	do	do	87,832	.....	42.48
	566	5648	do	do	do	403	476	do	28 barrels oil	26,400	.25	86.96
	618	25033	L. and N.	do	do	403	529	do	1205 cases oil	24,771	.20	27.74
	638	6450	U. F. L.	do	do	403	544	do	1 tank oil	24,204	.....	27.11
	204	6752	do	do	do	403	615	do	do	22,617	.20	25.33
	.....	.....	.....	.....	Various	102	Various	Various	Misc	.....	.....	24.08
	.....	.....	.....	.....	do	206	do	do	do	.....	.....	59.22
March....	227	8556	M. and O.	Cairo	Trenton	84	do	do	do	1,850	.....	10.83
	334	8629	do	do	West Point	79	S. Oil Co.	do	60 barrels oil	24,000	.22	52.80
	1286	8610	do	do	Aberdeen	243	do	do	do	24,000	.83	79.90
	145	36842	B. and O.	Rives	Mobile	442	Lou. 412	Brown & Brown.	do	24,000	.33	79.20
	297	14858	do	do	do	442	1180	do	50 cases oil	23,400	.336	32.09
	709	25023	L. and N.	Humboldt	do	403	647	S. Oil Co.	50 barrels oil	23,400	.336	33.09
	705	25002	do	do	do	403	641	do	do	24,553	.17	23.37
	708	996	M. and O.	do	do	403	642	do	do	25,263	.17	24.06
	25014	83	L. and N.	do	do	403	1	do	do	25,800	.17	30.84
	53	25045	do	do	do	403	2	do	do	25,518	.17	24.29
	243	1918	do	do	do	403	191	do	do	25,518	.17	24.29
	274	5173	U. F. L.	do	do	403	200	do	do	26,000	.17	30.58
	557	5225	L. and N.	do	do	403	481	do	do	28,092	.17	26.74
	588	25028	L. and N.	do	do	403	483	do	do	28,531	.17	24.29
	589	25076	do	do	do	403	480	do	do	28,531	.17	24.29
	567	25007	do	do	do	403	514	do	do	28,523	.17	24.29
	566	25082	do	do	do	403	515	do	do	24,721	.17	23.18
	569	26011	do	do	do	403	182	do	do	24,875	.17	23.20
	604	25021	do	do	do	403	183	do	do	24,875	.17	23.20
	605	25063	do	do	do	403	184	do	do	24,875	.17	23.20
	581	6083	U. F. L.	do	do	403	184	do	do	24,238	.17	23.08
	582	6028	do	do	do	403	623	do	do	24,238	.17	23.08
	608	7118	do	do	do	403	634	do	do	24,724	.17	24.49

684	5479	do	Humboldt	403	623	do	do	25,724	.17	24.50
685	5142	do	do	403	623	do	do	25,724	.17	24.50
686	2506	L. and N.	do	403	626	do	do	25,724	.17	23.37
			Various	26	Various	Various	do	4,000		2.88
279	1034	M. and O.	do	403	S. Oil Co.	do	Mdco	24,250	.20	27.16
1	35437	B. and O.	do	442	Lon. 2009	Brown & B.	54 barrels oil	24,000	.115	27.60
147	13057	do	Rives	442	690	do	100 cases	24,000	.121	23.04
294	3518	M. and O.	do	46	S. Oil Co.	S. Oil Co.	60 barrels oil	24,000	.18	43.20
			Calro	63	Various	Various	63 barrels oil			14.40
			Various	249	Argyle	C. D. Munroe	Mdco	2,000	.44	8.80
			Macon				1 horse			

April 19...

TESTIMONY OF MALCOLM LLOYD.

MALCOLM LLOYD, sworn and examined.

By Mr. GOWEN:

Q. You were asked last week to produce a certain statement of rebates. Have you got it?—A. Yes, sir.

Q. Will you produce it?—A. I must ask to be excused from producing it.

Q. Why?—A. Because I think, on consideration, that it is interfering with my private rights.

Q. But you have that statement?—A. Yes, sir.

Q. But decline to produce it?—A. I ask to be excused.

Q. We can not excuse you, and I want to know if you decline to produce it.—A. I have admitted, Mr. Gowen, that I have received rebates, and that I have received rebates from the Pennsylvania Railroad; and I think, so far as the public are concerned, that that should be sufficient to conserve the public interests. Now, the mere fact of whether I received one price or another, I can not see is a fair thing to ask me. It is unfair, or I at least think so, because here in the room there are gentlemen who are having suits brought against the Pennsylvania Railroad. Those suits are being prosecuted, and whether I am to be called as a witness in those suits or not, I do not know; but if I am, I would rather not produce those rebates here if the committee will excuse me.

Q. The reason I ask you this question is that Mr. Cassatt, in the testimony which he gave in the year 1879 or 1880, which has been offered in evidence here, and in which he testified that certain rebates were allowed to the Standard Oil Company, also testified that one other person received rebates, but for the same amount, and that that other person was Malcolm Lloyd.—A. Yes, sir.

Q. Hence I would like, in your case, to know what those amounts were, but if you refuse to produce them, I will not bother you further.—A. I will not produce it. I do not mean to say that I am going contrary to the ruling of the committee. I do feel, however, that as long as I have admitted the fact, as long as you have it, as Mr. Gowen says, in Mr. Cassatt's evidence, and as long as I may be called on in the course of a very short time to go into court and testify as to these matters, I simply ask to be relieved by the committee. I think the public interests, as far as the committee are investigating the Standard Oil Trust and railroads and rebates will be sufficiently conserved by what I have given them. Now, going further, it may have a matter of private interest involved in it.

The CHAIRMAN. The committee will pass upon this after the recess. The committee then took a recess until 2 o'clock.

AFTER RECESS.

TESTIMONY OF EDGAR HILL.

EDGAR HILL, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Cleveland, Ohio.

Q. What is your business?—A. General freight agent of the Cleveland, Columbus, Cincinnati and Indianapolis Railroad.

Q. How long have you been in that position?—A. Since September, 1885.

Q. You are shipping oil over your line; who has charge of the rates upon it?—A. I have.

Q. You were subpoenaed to produce statements showing the rates to different people and the rebates and all that. Have you prepared such a statement?—A. We have prepared a statement and got as far along with it as we could; being so far back we did not have time to get the whole of it; but I think I have enough with me to answer the questions.

Q. Have you that statement with you?—A. Not a complete statement.

Q. Why did you not produce it?—A. We did not have time to get it up.

Q. How much of it have you made up; have you any statements?—A. I have some of the tariffs showing the rate.

Q. But you were subpoenaed to produce a statement of the shipments during 1886, 1887, and 1888.—A. We could not get it ready; we did not have time.

Q. That only goes back for a little over two years.—A. Our subpoena says for ten years back.

Q. Have you the subpoena with you?—A. Yes, sir; I think I have [handing the subpoena to Mr. Gowen.]

Q. (Reading:)

All shipments of coal oil, crude or refined, or of other products of petroleum, over said lines, or any of them, during the years 1886, 1887, and 1888, the names of the shippers, the extent and amount of shipment, the kind of cargo, and the weight or bulk thereof, the rate of freight charged and received, the length of haul, with point of origin and destination on said line, the amount of deductions, allowances, or rebates paid, allowed, credited, or claimed on each shipment, and the amount of car service allowed, paid, credited, or claimed on each.

A. We have not got that.

Q. Why not?—A. We had not time to get it up. It would take at the lowest calculation about a month, with ten men, to comply with that request.

Q. Other railroad companies have made it and brought it here without any trouble.—A. I don't think they have made such a statement as that calls for.

Q. The second statement, yes.—A. We could not get it in that time.

Q. Did you make any attempt to answer that subpoena?—A. Yes, sir; we put some men to work and they are on it now.

Q. What is the result of that work, where is that paper?—A. It is in Cleveland.

Q. Why didn't you bring it here?—A. I could not get it ready.

Q. You could get some of it ready?—A. Yes, sir.

Q. Did you bring any of it?—A. I am prepared to answer any question about the rate.

Q. We want the statement that you were subpoenaed to produce.—A. We did not have time to get it.

Q. When did you set men to work on it?—A. This subpoena was served on me on Saturday evening a week ago, and we put them to work Monday morning.

Q. You mean Monday of last week you set them to work?—A. Yes, sir.

Q. Who are they?—A. Men in the auditor's office.

Q. Who?—A. Clerks.

Q. What are their names?—A. I don't know.

Q. How do you know they were set to work?—A. I know they were set to work. Our auditor is here. If you call on him he can tell you about it.

Q. It was in his department?—A. Yes, sir.

Q. Were the rates on oil upon your road carried in tank cars as distinguished from oil carried in barrels on shipments south or west?—A. During what time?

Q. In those three years.—A. Do you mean the quantity of oil shipped?

Q. What were the rates per barrel or ton on tank cars, or per 100 pounds?—A. To what point?

Q. To any point?—A. We had a rate of \$37 a tank from Cleveland to East Saint Louis; that was one rate.

Q. Thirty-seven dollars a tank?—A. Yes, sir.

Q. Was that \$37 a tank the proportion that was coming to you from your own line? You don't run from Cleveland to East Saint Louis?—A. The C. O. C. and I. runs from Indianapolis.

Q. Over what line does it run?—A. Over the Saint Louis.

Q. That was a joint rate?—A. Yes, sir.

Q. What pro rata did you get?—A. I don't remember now; it is 283 miles; I don't remember exactly now what the percentage is.

Q. At the same time that that rate of \$37 a tank existed what was the rate in barrels?—A. It averaged in barrels during those times.

Q. Tell us what it was any one time.—A. The rate was 47 cents a barrel, and then it was reduced to 43½ cents.

Q. Was it ever advanced?—A. Yes, sir.

Q. When?—A. On the 5th of April, 1887.

Q. What was it advanced to on the 5th of April, 1887?—A. We have the same rates to-day that it was advanced to then—62 cents a barrel and 47 cents a barrel.

Q. What did the 62 cents a barrel and the 47 cents a barrel apply to?—A. Forty-seven cents in tank, actual capacity, and 62 cents a barrel for 400 pounds. It figures exactly the same per 100 pounds.

Q. Thirty-seven dollars a tank?—A. That was the rate prior to that time.

Q. What is the rate on tank oil, or what was the rate put to in April, 1887?—A. In tanks?

Q. Yes.—A. Forty-seven cents a barrel.

Q. That would be \$47 a tank for 100 barrels?—A. Yes, sir.

Q. And 62 cents a barrel for 400 pounds?—A. Yes, sir.

Q. How did you arrive at any conclusion that that equalized it?—A. By estimating what a barrel of oil weighed in bulk. We estimated it at 315 pounds, and a barrel of oil and wood is 400 pounds.

Q. The barrel does not weigh 85 pounds?—A. You mean the empty barrel?

Q. Yes.—A. I think it does.

Q. You think an empty barrel weighs 85 pounds?—A. I think it does.

Q. Don't you know it only weighs a little over 75 pounds?—A. No, sir; I do not.

Q. What are the four points in the United States with reference to your trade that you call basing points for the equalization of oil rates?—A. Chicago and Saint Louis.

Q. I mean points of shipment.—A. Oil shipped to?

Q. No, from.—A. Pittsburgh, Cleveland, Parkersburgh, and the valley points.

Q. And Marietta?—A. Parkersburgh and Marietta, yes.

Q. Are the rates made in the South and West the same from Cleveland to Parkersburgh as from Marietta to Pittsburgh?—A. No, sir; I do not think they are the same.

Q. Can you give us what the rates are from those different points?—A. I can give you the rates from Cleveland.

Q. You have just given us those.—A. I think the rate from Parkersburgh is the same. We are not interested in the Parkersburgh oil. We have no rate from there.

Q. Have you any from Pittsburgh?—A. No, sir.

Q. Any from Marietta?—A. No, sir. I can get those, if you want them.

Q. We do want them.—A. They are not in my territory.

Q. Are those not the four basing points, as it may be called, upon which rates of oil are made by the railroad systems of the South and West?—A. Yes, sir.

Q. They are, are they not?—A. Yes, sir.

Q. Now can you tell me whether the rates from those four points are generally the same; suppose you are shipping oil to Saint Louis, would the rates from Parkersburgh and Marietta be the same as the rates from Cleveland?—A. I think they are the same. We are not interested in Parkersburgh oil. We don't use the tariffs. Our road don't go there.

Q. Your road don't go to Cleveland?—A. Yes, sir; it does.

Q. Directly?—A. It starts there.

Q. Does it go to Pittsburgh?—A. No, sir; our road is from Cleveland to Indianapolis. Then we have two branches, one to Columbus and one to Cincinnati.

Q. If oil were sent to Pittsburgh over your road or any portion of it, at what point would it strike your road if the oil went to Saint Louis? Would you get any of that?—A. No, sir. We have no connection with any road leading from Pittsburgh to get any oil.

Q. If it were shipped from Marietta, going west or south over your line, at what point would that reach you?—A. They might give some of it to us at Cincinnati, or some at Indianapolis.

Q. If you get oil from Marietta, either at Cincinnati or at Indianapolis, can you tell us whether the through rates on that oil going to Saint Louis are made the same as the through rates from Cleveland?—A. I think they are.

Q. How does the distance between Marietta and Saint Louis by your route compare with the distance from Cleveland to Saint Louis?—A. I think it is 545 miles from Cleveland to Saint Louis. I do not know exactly what the distance is from Marietta to Saint Louis. I have not figured it up.

Q. You are a railroad man, and you know a good deal about those subjects, can not you tell us?—A. I think it is 210 miles from here to Cincinnati, and from Cincinnati is—

Q. What is the entire distance?—A. About the same distance, 575 miles.

Q. Now, you have several times, have you not, advanced the rates on barreled oil over your territory in the last three years?—A. We have made very few changes in them.

Q. Have you not made some changes; have you not advanced the rates?—A. Here were the rates in effect June 1.

Q. Of what year?—A. Of 1883; corrected on June 14. Some revisions were made, but I do not think there were very many.

Q. If you have statements there of the rates covering the whole period from the beginning of the first of those down to the present day, I wish you would give them to us, please.—A. Here is a tariff we got out June 1, 1885. I do not think these rates were changed very much. June 1, 1885, the rate was reduced to some of the points, I see.

The CHAIRMAN. Can not we get a condensation of this somehow?

Q. Are those sheets that you have now in your hand tariff sheets?—

A. Yes, sir; Nos. 1, 2, and 3, and corrections during the time we had to furnish them.

Q. What period do they cover?—A. From 1883 up to 1887.

Q. Up to what portion of 1887?—A. April.

Q. What have they been since April, 1887; have you any of those?—

A. Yes, sir. They have been revised. Those are the present rates; but there have been no changes in them since April, 1887.

Q. Were there any changes from January 1, 1886, on barrel oil to New Orleans and southern points?—A. I really do not remember about that. I find that I did not bring any rates to New Orleans at all. I have none with me.

Q. You were subpoenaed to bring all the rates over your line?—A. I know; but I neglected to bring them.

Q. Do you know Mr. Fraser, the general freight agent of the Cincinnati, Washington and Baltimore?—A. Yes, sir.

Q. Do you remember of telegraphing him on the 16th of August, 1885, asking him to advance rates on oil from Cleveland to New Orleans, to take effect at once, to \$2 a barrel?—A. I think there was some correspondence of that kind about that time.

Q. At whose suggestion was that done?—A. To the best of my recollection it was done at the suggestion of the Chesapeake and Ohio and Southwestern.

Q. Was that one of the lines in the through line?—A. Yes, sir; and one of the routes.

Q. Mr. Mitchell was the general traffic manager of that line?—A. The general freight agent.

Q. Do you know whether at the same time he telegraphed or wrote to Mr. Fraser to secure such an advance?—A. I think he did. The idea was to get a uniform advance from Parkersburgh and Cleveland.

Q. To \$2 a barrel?—A. Yes, sir.

Q. Now, at that rate at that time, what was the rate on tanks of oil from Parkersburgh or Cleveland to New Orleans?—A. I do not remember. The rate goes as low as \$85 a tank, regardless of the quantity, and our idea was to get the rate back into line. We had a rate of \$100 there quite a while, and I think it was some time in 1886 that it was made \$85 a tank.

Q. Now take up those tariff sheets if you please, and looking at them give us, so that we need not use the whole of those papers.—A. Understand that these rates are the printed tariff rates. Those that I have been speaking of are net rates.

Q. Do you mean to say you gave net rates different from those printed on the tariff sheet?—A. Yes, sir.

Q. How much are the printed rates on the tariff sheet?—A. So much a barrel.

Q. Was it on the printed tariff sheets the same whether it was sent in tanks or barrels?—A. We only printed tariffs on oil in barrels, not on oil in tanks.

Q. Now, is all the oil that is sent over your lines by the Standard Oil Company or their associates sent in tank cars?—A. No, sir.

Q. Is it sent in barrels?—A. A good deal of it.

Q. How much?—A. I can not tell you the proportion; I suppose about 30 per cent. of it, though.

Q. You were asked to produce here a statement of the rebates allowed by you on oils. Have you such a statement?—A. The statement is in process of being made. We have not got it with us.

Q. When will that statement be finished?—A. I can not tell you. It will take about a month to finish it, I guess.

Q. Do you think it will take so long?—A. Yes, sir; with five men.

Q. Will that statement, when finished, contain exactly what is called for, so that by turning to each shipment you can see exactly the gross rate and the rebate allowed upon it?—A. I hardly think you want a statement of that kind.

Q. What kind of a statement are you preparing?—A. I am preparing a statement to show you what the net rates are.

Q. The net rates only?—A. The net rates and vouchers showing the net rates.

Q. That means the rate after all allowances and rebates were deducted?—A. Yes, sir.

Q. Have you not shipped or permitted tank cars of oil to go to Cleveland and Mobile and New Orleans at \$70 a tank?—A. Not to my recollection.

Q. You have not?—A. Not to my recollection.

Q. Have you not carried on such a prorate so that your proportion of the prorate amounted to only \$16.80 per tank?—A. I have no recollection of any such rate.

Q. What is your recollection as to the lowest sum that was your part of the share of any other rate on tank cars of oil carried from Cleveland to Mobile or New Orleans?—A. I can not give you that, because the lowest rate was \$85 dollars a tank, that I can remember. Our prorate of that I do not remember what it was, because we had two or three different routes to send it and figured differently.

Q. Oil going from Cleveland to Atlanta, Ga., would go over a portion of your line?—A. Yes; if they would give it to us.

Q. Describe where that would leave your line as it went southward from Cleveland?—A. It would depend altogether as to how it was consigned by shippers. We have a route at Indianapolis and we would prefer to have it there. We have a road to Cincinnati, which is a short distance.

Q. You prefer to take it by the road that would give you the longest mileage on your own system, naturally?—A. Yes, sir.

Q. What is the lowest net rate that you can remember that you carried oil for in tank cars for anybody connected with the Standard Oil Company from Cleveland to Atlanta?—A. We never made a through rate from Cleveland to Atlanta on tank cars.

Q. You never participated in a through rate?—A. We did not.

Q. You are sure of that?—A. Yes, sir; our rate was from Cincinnati.

Q. Do you know a firm of Chess, Carley & Co.?—A. Yes, sir.

Q. That is a part of the Standard Oil Company?—A. I always thought so.

Q. Please look at that voucher (handing it to the witness) and state what that represents?—A. This represents an overcharge on a shipment of oil from Cleveland to Atlanta.

Q. Now, at what rate was that oil from Cleveland to Atlanta charged in the first place?—A. I don't know what that through rate is.

Q. The gross through rate at which that was charged originally?—A. It shows it was charged here on 21 tanks, \$3,307.50; that is the through rate.

Q. Now, what amount of that \$3,307.50 was deducted?—A. According to this there is \$1,505.70 deducted.

Q. That was the rebate or allowance?—A. Yes, sir; overcharge.

Q. That would reduce it to \$1,801.80?—A. Yes, sir.

Q. That would be about \$90?—A. That through rate was divided. Our rate was \$24 a tank to Cincinnati. We had nothing to do with the through rate.

Q. Your line was allotted a portion of that \$1,505.70?—A. Our local rate from Cleveland to Cincinnati.

Q. How much of that \$1,505 allowance came to your line?—A. Three hundred and eighty-eight dollars and fifty cents, according to this paper.

Q. That was your share of the allowance, was it not, \$388.50?—A. Yes, sir; we should have charged \$24 a tank; we overcharged it \$388.50 on the 21 tanks.

Q. That \$24 a tank represented the net rate which was coming to your line as part of the through rate from Cleveland to Atlanta?—A. No, sir; we had nothing to do with the through rate.

Q. That shipment went over your line?—A. Yes, sir; the rates were made up of a combination of two locals.

Q. Certainly your line was a part of the through route?—A. Yes, sir.

Q. You received, as being a party to that through route, of this allowance of \$1,505.70, \$388.50 did you not?—A. Yes, sir.

Q. And the result of the reception of that money was to reduce your net rate to \$24 a tank car by the mileage that it passed over your line?—A. Yes, sir.

Q. What was the extent of that mileage?—A. Two hundred and forty-four miles.

Q. From what point to what point?—A. Cleveland to Cincinnati.

Q. The difference between the tariff rate as published and the net rate to which it was reduced made the sum on that one shipment alone \$388.50 for the mileage you had from Cleveland to Cincinnati?—A. It would seem so.

Q. Now the difference of that reduction amounted to about 45 per cent. of the whole?—A. Just about.

Q. That is, as compared with the published rates, the difference taken off amounted to about 45 per cent. of the whole?—A. They show for themselves.

Q. I want to get your answer to that question? You can take your time and make it up. It is about that.—A. It is about 45 or 50.

Q. It would not be 50. You were asked to produce correspondence and telegrams between Fraser, Mitchell, and others on the oil rates.—A. That summons was not served on me until last Friday, and I had to leave Saturday. I did not get that up.

Q. Why not?—A. I had not time. I could not get it up; it is five years' correspondence.

Q. Did you make any attempt to get it up?—A. Yes, sir.

Q. Have you any of it here?—A. No, sir; they are working on it at home.

Q. Will you send us copies of all that correspondence, especially between yourselves and Fraser, Mitchell, and Morey, on the subject of oil rates?—A. Yes, sir.

Q. Do you carry cotton-seed oil and turpentine over your line?—A. Yes, sir.

Q. As return load on tank cars?—A. Wherever we can get it.

Q. What are the rates on that?—A. I can not tell you just now; I have not a record of those.

Q. Will your statement which you are to send us show that?—A. Yes, sir.

Q. Will it show the net rates?—A. It will show everything.

Q. Will it show for the last three or four years what the tendency on your rates has been, downward or upward?—A. Those tariffs will show that.

Q. Do you not at the end of the year, in making your returns, ascertain the exact rate per ton per mile for hauling freight?—A. The tendency has been upward within the last few years; 1887 over 1886 was an increase; I think 1886 over 1885 was an increase; I do not remember the exact figures.

Q. Can you tell us what your return shows as the average rate per ton per mile which you received for hauling in 1885, 1886, and 1887?—A. I can not tell you.

Q. Was it as high as a cent?—A. No, sir.

Q. Was it under 7 mills?—A. I think it was about 7 mills. I have not those figures with me.

Q. Is 7 mills, as a general thing, less than the average of Western roads?—A. I think in 1886 it was about 6; in 1887 it was 7 and something.

Q. With reference to the volume of traffic moved over your line, north or south, which is the greater in tonnage?—A. Our east-bound tonnage.

Q. Moving northward?—A. Yes, sir; what we call east-bound; ours is east and west.

Q. The west-bound is less?—A. Yes, sir.

Q. Freight going southward goes westwardly over your road?—A. Yes, sir.

Q. In carrying tank cars over your line do you allow mileage both ways?—A. Yes, sir; invariably.

Q. Do you also allow mileage on empty cars of other companies that you do not own yourselves?—A. Yes, sir.

Q. Have you any knowledge of the Standard Oil Company shipping oil in less than car-load lots over your line at the same rate as car-load lots?—A. No, sir.

Q. Do you know that?—A. Yes, sir.

Q. You are sure of it?—A. Yes, sir.

Q. You say they have not done so?—A. They have not done so.

Q. What is the difference on your line between full car loads and less than full car loads?—A. I did not go into less than car-load rates; did not bring any with me; I only brought car load-rates. The less than car-load rates, according to the official classification, was first class, I think.

Q. Have you a circular which was issued, I think, in the year 1886, signed by a number of the companies of the South and West, upon the subject of oil rates?—A. I do not think I have.

Q. Will you look at that and see if you recognize it [handing witness a paper]?—A. I do not think I ever saw one of those before.

Q. You do not recognize that?—A. No, sir.

Q. Now, when do you think those statements will come here?—A. It will take some time to get them up, and I would rather refer you to our auditor on that subject. He is here.

Mr. GOWEN. I will call him then.

TESTIMONY OF P. A. HEWITT.

P. A. HEWITT, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside ?—A. Cleveland.

Q. What is your business ?—A. Auditor of the Cleveland, Columbus, Cincinnati and Indianapolis Railroad Company.

Q. How long have you occupied that position ?—A. Since October 22, 1881.

Q. You have nothing to do, I suppose, with the fixing of rates or of the rebates on freight ?—A. No, sir.

Q. State whether you have control of vouchers for disbursements on your line ?—A. I have the custody of those.

Q. Who certifies to their correctness ?—A. The general freight agent and the general manager.

Q. Then any allowances of rebates on freight would not go through your department, except after they had been vouched or paid ?—A. No, sir; they would go through there for my audit and approval before they were paid, and turned over to the treasurer afterwards.

Q. Do you exercise any supervision over the question of whether they shall be paid or not, or do you accept the certificate of the general freight agent or general traffic manager as correct on that subject ?—A. I accept the approval of the general freight agent and general manager.

Q. And then you certify to their correctness ?—A. As to the figuring and recording of them.

Q. The system of your railroads requires that your certificate should be put upon them to make them a valid voucher ?—A. They go to the treasurer for payment.

Q. And if it is sent to the treasurer with your signature on together with that of the general freight agent and general traffic manager, it is paid ?—A. Yes, sir.

Q. Do they then come back to your department ?—A. Yes, sir; the original, with the receipt attached.

Q. Now, you have been subpoenaed and asked to produce a statement of all these. Have you been working at it ?—A. Yes, sir.

Q. How long do you think it will take to make that up ?—A. If I understand the summons correctly—of course it is a very indefinite thing to state positively as to the period of time it will cover.

Q. Look at No. 2 there ?—A. No. 2, as I understand it, and you have to take No. 3 with it also in order to have the statement complete. You asked me to give you a statement of all the oil carried for a period of four years and three months. You ask me to give you the number of shipments and by whom shipped.

Q. Yes.—A. The weight, rate, and amount of freight ?

Q. Yes.—A. Then you ask me to give the rates of rebate to apply to each shipment. Then you ask me to give the car service. Now, in order to give you the rebates and car service would necessitate me putting in the billing report of each, the date of the shipment, the number of the way-bill, and number of the cars, in order to get the car service.

Q. The manifest itself that passes through your office would contain all that information, except car service and rebates ?—A. Yes, sir.

Q. And the manifest would enable you to ascertain from its number exactly where to turn in order to get at the car service and rebates ?—A. Yes, sir.

Q. So that it is a mere mechanical operation to get the rate?—**A.** I would like to explain to you, in order to show that it is more than a mechanical operation. To illustrate: You asked Mr. Hill some questions in relation to the subpoena. Immediately on getting your summons I went to the office on Monday morning. I got it Saturday night at my house. I telegraphed the general manager, and before I got his reply Mr. Hill went to see the president. I received a message to go to work actively and get up this statement for the committee, and before noon on Monday I had fifty men at work. Now, this fact has developed itself. We worked those men four days and partly paralyzed our business at the Cleveland station. It is an incomplete statement which I will show you; but I figured it would take from eight hundred to one thousand sheets of statements like this [showing Mr. Gowen a paper].

Q. To get up the items for two or three years?—**A.** Yes, sir; and we confined ourselves to car service alone.

Q. What is the annual passage of oil over your roads?—**A.** I have not the figures. This will develop it, and I think it will be about 34,000 car-loads in two years. That would be from 12,000 to 15,000 car-loads a year.

Q. Do you say that on a business of 12,000 or 15,000 car-loads a year it will take that number of sheets to get a statement of it?—**A.** Yes, sir. It will be from 40 to 50 on a sheet, and four times 8 would be 32; that would be 32,000 items for two years; 16,000 for one year.

Q. That is covering each car-load.—**A.** You ask me for all shipments.

Q. Your shipments are in more than one car-load. You may have a manifest of 50 car-loads?—**A.** No sir; we have a way-bill for each individual car.

Q. If the Standard Oil Company ships one train-load of oil from Cleveland to points south or west over your line, is there a separate manifest made for each car?—**A.** Yes, sir.

Q. Do the Western railroads adopt that system?—**A.** That is the way we do. I can not answer for anybody else.

Q. Do you mean to say you would have 100 manifests for 100 cars if they were shipped for one man to another person?—**A.** Yes, sir. Suppose we take one load out of Cleveland and the car broke down on the road, we would have our settlement thrown out, and we might have \$15,000 or \$20,000 due us and we would have to hold it back.

Q. You say your practice now is to have a separate manifest for each car, even if 100 cars are shipped from one consignor or a consignee?—**Yes, sir; always.**

Q. I do not want to put you to any such trouble as that.—**A.** I thought perhaps you did not.

Q. I never heard of that system being enforced where the number of cars, no matter what it was, that passed in one train went from one consignor to the same consignee at another point. Can you, then, make this statement up which will show to us the gross rates on oil and the net rates, deducting draw backs on oil shipped by companies connected with the Standard Oil Company and by people who are not connected with it? Can you just make the distinction between those two?—**A.** I do not know that I grasp the idea. Do you mean to cover the period asked for in the summons; a complete statement?

Q. No, sir; not a complete statement. Just wherever there was a difference of rates?—**A.** Just one shipment?

Q. Yes. We do not care, or I do not care, about any duplication of shipments, but in every case where the rate was gross or net to the Standard Oil Company, or any of its affiliated interests, which would include the Chess-Carley Company or the Waters-Pierce or anybody you shipped for, wherever that rate is different from the rate another person got I would like to see it. Can you make that up?—A. Yes, sir.

Q. How long will it take to do that?—A. I can not tell positively. Perhaps we will have to cover all this period. We will have to go through every voucher. You see I can only work a limited number of men on that—perhaps two or three weeks.

Q. Your rates are published, I suppose? You have a published sheet of rates to everybody?—A. The general freight agent has shown me that tariff.

Q. I notice there is a difference in these published rates of yours, which is a special rate shown in the third item. The voucher would be made for a rebate or allowance, would it not?—A. Usually called an overcharge.

Q. When overcharges are paid by your treasurer, to what account are they charged in the general cash-book of the company?—A. To audited vouchers, and the distribution is made in my office.

Q. It is not made in the treasurer's office?—A. No, sir.

Q. He charges everything to the auditor whether freight, or other distribution?—A. Yes, sir.

Q. In your system of accounts in your own office, to what account do you place vouchers for overcharges?—A. We charge them right back to our general freight earnings account.

Q. You have no separate account?—A. We charge that to freight earnings.

Q. You have no separate ledger account?—A. No, sir.

Q. Then, in order to ascertain these items, you would have to turn to your ledger and see all the charges against freight earnings and find out what they were for?—A. Yes, sir; we would refer back to the register and get what they are for.

Q. Make up a statement showing what the gross and net rates were and all rebates allowed on the one side to people connected with the Standard Oil Company, and on the other side to those who were not connected with the Standard Oil Company.—A. I wish you would designate which are each.

Q. Don't you know that?—A. No, sir; I might make a mistake.

Q. Do you do business for the Waters-Pierce Company?—A. Yes, sir.

Q. That is one. You know that, don't you?—A. No, sir; I do not.

Q. Do you do business for Chess, Carley & Co.?—A. Yes, sir.

Q. That is another. If you will permit me I will give you a printed list of the companies that are connected with the Standard Oil Company; then you need not divide anything among those that are not in that printed list.

The CHAIRMAN. Covering what period?

Mr. GOWEN. 1886, 1887, and 1888. I will see that the witness gets that.

Q. Have you the correspondence that was asked to be produced by your subpoena, between the freight agents of the different roads upon the subject of oil rates?—A. It would be in the freight department.

Cleveland, Columbus, Cincinnati and Indianapolis Railway—Comparative statement of oil rates from Cleveland, Ohio, prior and subsequent to passage of interstate commerce law.

To—	Prior.		Subsequent.	
	Less than car-load.	Car-load, 60 barrels minimum.	Less than car-load.	Car-load, 60 barrels minimum.
	Per barrel.	Per barrel.	Per barrel.	Per barrel.
Anderson, Ind.	\$0.75	\$0.60	\$0.92	\$0.40
Alton, Ill.	1.20	.80	1.12	.62
Bellefontaine, Ohio. ....	.60	.45	.80	.27
Canal Dover, Ohio. ....	.60	.45	.68	.30
Canal Fulton, Ohio. ....	.60	.45	.60	.30
Chillicothe, Ohio. ....	.65	.50	.88	.25
Cincinnati, Ohio. ....	.65	.40	.62	.25
Circleville, Ohio. ....	.65	.50	.88	.25
Columbus, Ohio. ....	.50	.40	.68	.27
Cambridge City, Ind. ....	.75	.60	.92	.35
Columbus, Ind.	1.00	.85	1.00	.52
Connersville, Ind. ....	.75	.60	.92	.35
Crawfordsville, Ind. ....	.95	.75	1.00	.50
Cairo, Ill.	1.30	1.00	1.12	.75
Dayton, Ohio. ....	.65	.60	.88	.27
Delaware, Ohio. ....	.50	.40	.68	.27
Evansville, Ind.	1.20	.90	1.12	.62
East Saint Louis, Ill.	1.20	.80	1.12	.62
Green Castle, Ind. ....	.95	.75	1.00	.50
Hamilton, Ohio. ....	.65	.50	.92	.35
Hartford City, Ind. ....	.75	.60	.92	.20 1/2
Indianapolis, Ind. ....	.75	.50	.96	.40
Jeffersonville, Ind.	1.00	.60	1.02	.52
Lancaster, Ohio. ....	.65	.40	.88	.25
Lima, Ohio. ....	.60	.45	.68	.27
Louisville, Ky.	1.15	.60	1.02	.52
Marietta, Ohio. ....	.65	.50	.80	.38
Middletown, Ohio. ....	.65	.50	.92	.35
Mount Vernon, Ohio. ....	.50	.40	.68	.27
Madison, Ind.	1.00	.85	1.02	.52
Marion, Ind. ....	.80	.65	.92	.40
Mount Vernon, Ind.	1.20	1.00	1.12	.62
Muncie, Ind. ....	.75	.60	.92	.35
Newark, Ohio. ....	.65	.50	.68	.34
New Albany, Ind.	1.00	.60	1.02	.52
New Castle, Ind. ....	.75	.60	.92	.35
Noblesville, Ind. ....	.75	.60	.96	.40
North Vernon, Ind.	1.00	.85	1.02	.52
Piqua, Ohio. ....	.65	.50	.88	.27
Pomeroy, Ohio. ....	.70	.55	.92	.38
Portsmouth, Ohio. ....	.70	.55	.88	.42
Portland, Jay County, Ind. ....	.75	.60	.92	.35
Parkersburgh, W. Va. ....	.65	.50	.92	.40
Red Key, Ind. ....	.75	.60		
Richmond, Ind. ....	.75	.60	.92	.35
Ridgeville, Ind. ....	.75	.60	.92	.35
Rushville, Ind. ....	.75	.60	.92	.35
Sidney, Ohio. ....	.65	.50	.88	.27
Springfield, Ohio. ....	.65	.50	.88	.27
South Charleston, Ohio. ....	.65	.50	.88	.27
Seymour, Ind.	1.00	.85	1.02	.52
Tiffin, Ohio. ....	.60	.40	.60	.27
Troy, Ohio. ....	.65	.50	.88	.27
Terre Haute, Ind. ....	.95	.65	1.02	.50
Urbana, Ohio. ....	.65	.50	.88	.27
Union City, Ind. ....	.65	.50	.88	.36
Vincennes, Ind.	1.05	.90	1.02	.54
Washington Court House, Ohio. ....	.65	.40	.88	.35
Waverly, Ohio. ....	.65	.40	.92	.42
Wellston, Ohio. ....	.70	.55	.88	.42
Winchester, Ind. ....	.75	.60	.92	.35
Wann, Ill.	1.20	1.00	1.12	.62
Wheeling, W. Va. ....	.60	.45	.80	.35
Xenia, Ohio. ....	.65	.50	.88	.27
Zanesville, Ohio. ....	.65	.50	.68	.34

TESTIMONY OF A. G. BLAIR.

A. G. BLAIR, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Toledo.

Q. What is your business?—A. I am in charge of the freight business on the Wheeling and Lake Erie Railroad.

Q. Were you formerly general freight agent of the Cleveland and Marietta road?—A. Yes, sir.

Q. In what years?—A. From the fall of 1882 until February, 1885.

Q. That road went into the hands of a receiver?—A. Yes, sir.

Q. Who was appointed receiver?—A. Phineas Pease was the first receiver.

Q. When you had charge of that road or were acting as its general freight agent or traffic manager did you make any arrangement with Daniel O'Day about the shipment of oil over that road for his company; and, if any, will you please say what it was and what the rates were?—A. The negotiations for an arrangement were commenced, but before any conclusion was reached the road went into the hands of a receiver and it was immediately turned over to that receiver, and I know nothing about the contract.

Q. What did the negotiations lead to? Upon what basis were they being conducted? And state what Mr. O'Day desired.—A. He desired that the Cleveland and Marietta Railroad should carry the oil taken from a field called the Macksburg field.

Q. At what rate?—A. I think the rate was 30 cents per barrel, being handled entirely in tank. This was crude oil.

Q. And at what rate was it to be carried by the Standard?—A. There was but the one rate made, supposing the charges were identical.

Q. Did you not make any agreement or negotiation, or enter into negotiations upon the subject of an agreement with him under which you were to give him a rebate and allowance on the oil that was to be carried for other people, as well as that carried for himself?—A. If my recollection serves me right, we did not reach figures.

Q. You know that the arrangement was carried out with Mr. O'Day. He did make an arrangement with Pease?—A. I simply heard so.

Q. Will you look at that letter for the purpose of refreshing your recollection upon the subject? That goes back to a time when you were managing the railroad [handing the witness a letter].—A. This is four years old.

Q. Yes. State, if you can from recollection, at the time that letter was written, which was 1885, what were the rates over your line on crude oil or refined.—A. The rates to Marietta—the products of the Macksburg field went to Marietta and the rates were 30 cents a barrel at that time.

Q. From Macksburg to Marietta?—A. Yes, sir; that was the rate that was made at the time this pipe-line company was sought to be established at that point.

Q. Did you not have a rate to Cincinnati?—A. Yes, sir.

Q. What was it?—A. I can only say from recollection that it was 40 cents.

Q. Wasn't it 45?—A. Possibly.

Q. Wasn't it then 20 cents to the Standard Oil Company?—A. I know I never made any such arrangement.

Q. Did they not have a better rate over your road than other people had, either by rebate?—A. No, sir.

Q. Never?—A. No, sir; not by my instructions. I was entirely ignorant of it if it had been made.

Q. Look at that letter and see whether it is your signature?—A. It is not.

Q. It is not?—A. No, sir. The letter was dictated by me, but it is not my signature.

Q. Is it your letter?—A. Yes, sir; this letter refers to the shipments from Macksburgh to Marietta. Do you mean from Macksburgh to Marietta? You said Cleveland.

Q. First I said Macksburgh to Marietta, then I asked you about Cleveland?—A. I understood you to ask if one-half of the rate made to Cleveland to the Standard Oil Company was made to other people.

Q. Before examining you about Cleveland I will ask you about the rate to Marietta?—A. I do not understand your question.

Q. What was the rate to Marietta?—A. I have nothing to keep back concerning this Marietta matter. That was a contract made not with O'Day, but with parties named Brundred & Dale, a previous contract to the one we are talking about.

Q. What was that contract?—A. The contract is now in the possession of the Cleveland and Marietta road. Of course all the records were turned over to the receiver. I have not the papers and could not get them.

Q. Look at that letter.—A. Of that 30 cents a barrel rate for the work of collecting and loading the oil into tanks, the shipper was to get 15 cents and the railroad company the other 15 cents.

By the CHAIRMAN:

Q. Who is the shipper? Is that the Standard Oil Company?—A. No, sir; Brundred & Dale. There are two distinct arrangements in this matter that you must not mix up. If you do you will mix me up.

By Mr. GOWEN:

Brundred & Dale at that time controlled the pipe line leading from the Macksburgh oil field?—A. Yes sir; I want to state that the first arrangement I had all to do with, and the second I had nothing to do with—the arrangement with O'Day.

Q. The arrangement with Brundred was upon a through rate being made. That rate was divided between you in fixed proportions?—A. Yes, sir.

Q. And they got the benefit of that, and other people did not?—A. That was the situation.

Q. And this letter of yours to Mr. Terry correctly states the condition of things as it then existed?—A. Yes, sir; there is no denying the fact.

Q. I will offer this letter in evidence.

The WITNESS. I have an explanation to offer if you will allow me.

The CHAIRMAN. You can make any explanation you wish.

The WITNESS. These parties came to us—that is, Brundred & Dale—with a statement that they would have to establish a pipe line from the Macksburgh field to Marietta, in case they could not collect the oil at Macksburgh and load it on the cars of the Cleveland and Marietta Railroad. They gave us the choice. We accepted for the railroad what we thought to be the best for the owners of the property, which was in fact this contract specified in that letter.

Q. The result of which was that Mr. Rice who shipped oil over your road was paying more than other people?—A. I do not know whether he paid any more or not. Brundred & Dale said they would fix the matter with Mr. Rice. I understood afterwards they had. At least, Mr. Rice came into my office and I made some reductions to him. He said it was perfectly satisfactory.

Q. Brundred & Dale owned the pipe line which subsequently came under the control of O'Day and the Standard Oil Company?—A. I think one sold out to the other.

Q. But it was the identical business; the identical pipe line?—A. I believe so.

Mr. GOWEN. I will offer this letter in evidence. It is as follows:

[Dictated.]

WHEELING AND LAKE ERIE AND CLEVELAND AND MARIETTA RAILROADS,

Toledo, Ohio, November 14, 1884.

DEAR SIR: I hand you a letter written me by Mr. Rice on the 13th of November in reply to one I wrote to him upon the subject of oil shipments from Macksburgh to Marietta. He gets oil to Pittsburgh, a distance of 80 miles, for 15 cents, but does not say anything about the manner of getting it from Pittsburgh to Marietta. I presume that while the river is accessible they can get cheap crude oil, but I think a responsible all-rail route is entitled to some consideration alongside of other transportation that can be used but a few days in the year. We have rates in effect from Foxburgh, Pa., to Marietta of 45 cents per barrel. Please note what he says about being unable to buy oil at Macksburgh to compete with Parker's Landing oil, also note what he says about the probable largely increased traffic, providing the rates are lower.

I do not like to be bulldozed into any arrangement with him, and I must ask you and Mr. Dale to get together in this matter and conclude what is best to be done. You can say to Mr. Dale that if Rice knew that we were only getting 15 cents for hauling this oil, instead of 30 cents, he would think we were doing our work cheap enough. As it is, I had hard work to convince him before that the 30-cent rate was low enough, while the fact was we were getting but 15 cents. As the matter stands to-day the Ohio Transit Company are getting 10 cents per barrel on Mr. Rice's oil and this company getting 15 cents. If it is desirable to reduce it another 5 cents and this 5 cents will be equally divided between the Ohio Transit Company and the railroad company, I have no objection to the arrangement being made. This would be equal to the railroad company receiving 12½ cents net per barrel and the Ohio Transit Company 7½ cents on Mr. Rice's oil. If you think he would be satisfied with the 20-cent rate without any further drawback, mileage, or other payments, and it can be divided as above stated, it may be well enough to make the arrangement. Is it true that he bases his demand for a reduction in rates from Macksburgh to Marietta upon the fact that he can get less rate, all other things being equal, than we are charging him? I presume he refers to the pipe-line. Please confer with Mr. Dale in this matter thoroughly and give me your reply, and if necessary I will have an interview with him. Please return Mr. Rice's letter with your reply.

Yours truly,

A. G. BLAIR,
G. F. A.

J. E. TERRY, Esq.,

General Agent Cleveland and Marietta Railroad, Marietta, Ohio.

Q. The company there known as the Ohio Transit Company was the line represented by Brundred & Dale?—A. Yes, sir; I was confused on the start. There are two companies.

TESTIMONY OF J. L. DICKEY.

J. L. DICKEY, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Atlanta, Ga.

Q. What is your position?—A. Assistant general freight agent of the Western and Atlantic Railroad.

Q. Where does that line run from and to?—A. From Chattanooga, Tenn., to Atlanta, Ga.

Q. What is its length?—A. One hundred and thirty-eight miles.

Q. What line does it connect with on the north in order to form a through route south?—A. With the Nashville, Chattanooga and Saint Louis, and the Queen and Crescent.

Q. Now, do you remember in the year 1886 rates being raised on oil upon that line from \$35 to \$100 dollars per car?—A. Between Chattanooga and Atlanta?

Q. I think it was.—A. Yes, sir.

Q. Why was such a difference as that made?—A. I can tell you that the rate of \$35 was a special which we had given to Mr. Rice. In other words, the rate of \$100 per car-load, or 25 cents per 100 pounds, was regular tariff rates from Chattanooga to Atlanta. I mean the agreed rates between our line and the East Tennessee, Virginia and Georgia Railroad, which parallels us between Chattanooga and Atlanta.

Q. You had given a rate of \$35 a car to Mr. Rice, and he had been shipping on that rate?—A. Yes, sir.

Q. For how long?—A. I can not state exactly the time, but a considerable time.

Q. At the time this rate was raised \$100 a car from \$35 a car, had you communications with other railroads or with other people upon the subject of raising the rate?—A. Yes, sir; we had some.

Q. Who were those people?—A. The East Tennessee, Virginia and Georgia authorities.

Q. Was the Standard Oil Company shipping oil over your line at that time?—A. They were shipping oil from Cincinnati to Atlanta over our line.

Q. Were you not carrying their oil at that time for \$22.50 a car?—A. We were accepting our proportions of a through rate from Cincinnati. I do not think that is exactly the amount, but somewhere in the neighborhood.

Q. You had nothing to do with making the rates, had you?—A. No, sir.

Q. You simply took the prorate of the initial line that had the right to make the rate and bill it through?—A. Yes, sir.

Q. And that you think was \$22.50 per car to the Standard Oil Company?—A. Yes, sir.

Q. Over how many miles did that go?—A. One hundred and thirty-six miles it is given to us; about 132, I believe, if given to us at the junction south of Chattanooga of the Cincinnati Southern, or the Queen and Crescent; or, if given to us by the Nashville, Chattanooga and Saint Louis, 132 miles.

Q. That rate to the Standard of \$22.50 was not raised at the time this rate to Mr. Rice was raised?—A. No, sir; you understand the raise that you are talking about was simply the withdrawal of the special and the re-establishment of the agreed rates from Chattanooga to Atlanta.

Q. Over what length of railroad did this rate of \$100 per car to Mr. Rice apply?—A. One hundred and thirty-eight miles on our line, which was a short line.

Q. Over what length of mileage does the rate of \$22.50 a car to the Standard Oil Company apply?—A. Over the same distance, if given to us at Chattanooga.

Q. It is practically a discrimination of over 300 per cent.?—A. No, sir; I do not think it is.

Q. Why not?—A. In one case we were expecting a revision of the through rate, and in the other we were taking a shipment which was

local to us. We were charging on that the agreed and published rate from Chattanooga to Atlanta.

Q. The result was that the Standard Oil Company was receiving a railroad service at \$22.50 a car over the same length of mileage that somebody else was paying \$100 for. Was not that the result?—A. Yes, sir.

Q. Don't you think it was pretty severe on those who paid \$100?—A. You can take this in connection with it. The oil offered by the Standard people was in tank cars, and the rates in tank cars were very much less at that point between all points than by shipment in wood barrels or other packages.

Q. Don't you know that on northern and eastern roads for a long time the railroads have been carrying oil in tanks and barrels at the same rate?—A. I am not advised as to what the testimony has been on northern and eastern lines. I know our association, which is the Southern Railroad and Steam-ship Association, have had a difference all the time.

Q. You are not aware that the trunk lines—the eastern lines—are carrying oil in barrels at the same rate that they carry oil in tanks?—A. I suppose the rates are the same now.

Q. I mean prior to the interstate-commerce decision?—A. No, sir.

Q. Don't you know that prior to the interstate-commerce decision upon that subject an association of western railroads had recommended putting oil in barrels and oil in tanks under the same classification?—A. I do not know that that was brought to my attention; it might have.

I do not remember particularly about that.

Q. What was the weight of 100 barrels in a car, practically 40,000 pounds?—A. Yes, sir; about that, I guess.

Q. And 100 barrels in a tank car would weigh about 31,500 pounds?—A. Somewhere in that neighborhood.

Q. Thirty-one thousand five hundred?—A. I suppose somewhere in that neighborhood. The net weight of a barrel of oil would be 320 or 315 pounds, I think.

Q. Do you think it would be possible for anybody shipping oil in barrels to compete in the market with a man shipping oil in tanks if the former had to pay \$100 on 40,000 pounds, and the latter \$22.50 on 31,000 pounds?—A. No, sir; I do not think so. I will explain right there that we offered to make a concession to Mr. Rice. He called on me with reference to his oil shipments to Atlanta and talked the matter over. He said that he had difficulty in getting into that market, and I assured him that we were not inclined to charge any more on his shipments than on other people's, if they were made under the same conditions. He complained that he had no tank cars. I told him that our rates from Chattanooga to Atlanta were fixed and agreed rates, and I did not very well see how we could make a low rate; that I could only do it by accepting a portion of the through rate, or what the through rate would be under the established figures in barrels from Cincinnati through, and treating it as a new shipment. I told him to help him out we would undertake to handle his business at a rate of \$35 a car-load, which was about the same that we were shipping on barrel shipments from Cincinnati through. I also told him at the time that I doubted my authority to make that arrangement with him, but we would presume upon our right to do that and would put that rate in effect for him; but I gave him no length of time. I doubted whether we would be able to sustain ourselves to keep it up. Mr. Rice understands the circumstances in regard to that rate. It was not any inclination on the

part of our company to withdraw that rate, but the circumstances were such that we could not do anything else. Those are about the facts. We simply restored the agreed published rates.

Q. When the interstate commerce act went into effect last spring you made some changes in this car-load rate under which Mr. Rice would have come, did you not; you reduced it 20 cents a hundred probably?—A. Yes, sir; I think so.

Q. That would be 80 cents a barrel, or \$80 a car for 100 barrels?—A. Yes, sir.

Q. But the rate on the Standard Oil Company's tank cars still remained at \$22.50?—A. You must bear in mind that the Standard Oil Company was not shipping between Chattanooga and Atlanta. On the other hand, Mr. Rice's shipments were local between Chattanooga and Atlanta, and of course they had to take the established rates between those points. If you compare the rates which were in effect all over the country on oil in barrels for a distance like ours, you will find that the rates that Mr. Rice complained we were charging him were not higher rates than those that usually obtained throughout the country.

Q. But the \$80 rate, to which his car-load rate was reduced, was over 300 per cent. higher than the \$22.50 rate which the Standard Oil Company was getting?—A. Yes, sir.

Q. And although the circumstances were not the same in respect to the initial point and one of through billing, the fact is the same that both consignments passed over an equal distance of your road?—A. Yes, sir; still in one case one was a through shipment from an initial point on the Ohio River, and the other was a local shipment between local points in our territory, not exactly in the same State, but very nearly so.

Q. Have you heard of the recent decision of the Interstate Commerce Commission?—A. Yes, sir.

Q. Have you made a change in your rates since then?—A. Yes, sir; the initial lines from the Ohio River are charging the same on oil, whether in barrel or tank. In other words, charging 100 pound rate.

Q. What is the rate they are now charging from Cincinnati to Atlanta on oil in tank cars?—A. Thirty-seven and one-half cents per hundred pounds.

Q. That would be \$37.50 per tank of 100 barrels, as compared with \$22.50, which it was before?—A. Per hundred pounds.

Q. I beg your pardon. That would be considerably over \$100 a tank?—A. Yes, sir.

Q. Have you then raised the rate on barreled oil to make it equal to that?—A. The rate has been lowered on barreled oil. It was higher per hundred pounds from Cincinnati to Atlanta prior to the change of rates. In other words, the rates are the same whether in barrels or tanks.

By Mr. BUCHANAN:

Q. I would like to know the distance between Chattanooga and Atlanta?—A. One hundred and thirty-eight miles.

Q. On oil which you ship from Chattanooga to Atlanta, your local rate was 80 cents a barrel?—A. Our local rate at the time Mr. Rice negotiated with us first was 25 cents per hundred pounds, which would amount to \$1 a barrel.

Q. And your proportion of the through rate on oil reaching you from other initial points—A. In wood, at that time, was about \$35. We agreed to treat the shipments at that time, although we did not feel that we had exactly the right to do so inasmuch as he billed from a

point to Chattanooga and then shipped local from there—we agreed to bill his shipments at about the proportion we would if he had billed through.

Q. The result of it was that oil carried from Chattanooga to Atlanta was charged a higher rate from the initial point at Chattanooga, than oil carried from a point on the Ohio River to Chattanooga and then billed through?—A. Yes, sir.

Q. On what principle were those rates adjusted in that way?—A. On the same principle throughout the country.

Q. This was absolutely higher?—A. Yes, sir; because it was between what you might term local points, while the other was between through points.

Q. What conditions existed which justified the rule that you say obtains in charging more for local rates than they do through rates?—A. No transportation company could very well afford to put all of its local business on the basis of its proportion of through rate.

Q. I am not speaking of proportions of through rates; I am speaking of an absolute charge for an absolute distance. Did it cost you any more to haul that oil from Chattanooga to Atlanta, when its initial point was Chattanooga, than to haul it from a point on the Ohio River when its initial point was north of Chattanooga?—A. No, sir.

Q. The rate which Mr. Rice desired to obtain from you in the first instance was a rate that was not the open rate?—A. It was not the established open rate.

Q. He desired a lower rate than your open rate?—A. Yes, sir.

Q. What grounds did he give for making that application?—A. He gave the grounds that, under the tariff as applied to oil shipments in wood, he could not reach that market as against the rate given on shipments in tank cars.

Q. Did he apply for a rate on shipments in wood cheaper than you were giving to other shippers in wood?—A. No, sir.

TESTIMONY OF A. H. LOGAN.

A. H. LOGAN, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Philadelphia.

Q. What has been your business?—A. The petroleum business.

Q. State whether or not you were a partner of Mr. Emery in the refining business in Philadelphia.—A. Yes, sir.

Q. That was the refining business which was recently turned over to the Standard Oil Company?—A. Yes, sir.

Q. What was the name of your firm?—A. Logan, Emery & Weaver.

Q. Had you charge of the business in Philadelphia at the refinery?—A. Yes, sir.

Q. State whether you are a practical refiner of oil?—A. Yes, sir.

Q. How long have you been engaged in that business?—A. Directly and indirectly for fifteen years.

Q. Confining yourself to the time at which, within the last two or three years, your refinery received oil by railroad over the Pennsylvania Railroad, which oil came to it at Milton by the pipe line, state what the character of that oil was with reference to its quality?—A. When we first began receiving oil at Milton the quality was about as

good as we had been getting from the oil regions directly ; but for the past year and a half the quality has been very bad.

Q. What percentage of refined oil, illuminating oil, did you get out of fairly good crude oil ?—A. To be exact, we should get 81 per cent. of Bradford oil.

Q. What percentage of refined oil did you get-out of this bad oil ?—A. Ten per cent. for part of the time.

Q. Over what length of period did the receipt of this bad oil continue ?—A. Steadily for about a year.

Q. Now, the first product of illuminating oil that you get in the process of refining is what you call winter white ?—A. Water white.

Q. What proportion of that quality of oil which is designated as water-white oil did you usually get out of good crude petroleum ?—A. When we are running the oil, that is, a good quality direct from the wells, we get about 20 per cent. of water-white oil—over 20 per cent.

Q. What per cent. of water-white oil did you get out of this ?—A. Nine per cent.

Q. That is the most valuable product of illuminating oil, is it not ?—A. Yes, sir.

Q. State whether or not the quality of this bad oil was such as to require more fuel for its manipulation than would have been required for your oils ?—A. I can answer that very pointedly. Any one can understand that it was harder to run, took more time, and of course took more fuel, and besides it was much harder on the stills.

Q. What, in your judgment, was the commercial value, or the difference in commercial value, per barrel of crude oil of this bad oil as compared with what it would have been if it were good, merchantable fresh oil ?—A. To take the extremes it would be nearly 20 per cent. ; 20 cents a barrel.

Q. Now, with reference to the total number of barrels of oil used by you over the period during which you received this bad oil, can you tell us about what proportion of the oil that you received in that period was bad and what was good ; you say, I think, it extended over about a year and a half, did you not ?—A. Yes, about that time ; 90 per cent. of it was bad oil.

Q. You think 90 per cent. of it was bad ?—A. Unmerchantable oil.

Q. Now, you have been in the oil region a great deal ?—A. Yes, sir.

Q. You are very familiar with it ?—A. Yes, sir.

Q. Have you ever lived in it ?—A. No, sir ; not immediately in the oil regions.

Q. How long have you been connected with the oil trade in any capacity whatever, or in any position ?—A. Nearly twenty years ; just twenty-one years.

Q. Now, in those storage tanks, state whether or not there is not a deposit at the bottom which is considered unmerchantable oil ?—A. Yes, sir ; it is called the sediment. There is in all tanks an accumulation of that sediment.

Q. The greater the amount of sediment contained in any oil the less valuable it is ?—A. Yes, sir.

Q. State whether or not, in drawing off a tank, they have not got an instrument they call a thief, a glass tube which they put down into the tank in order to find out at what point of the tank this deposit exists ?—A. Yes ; they do.

Q. And do not they, in drawing off good oil, have something that moves up and down, as the case may be, to draw off the good oil and not touch the deposit ?—A. Yes, sir.

Q. Now, when they come to deal with this deposit in the tank, how do they manipulate that or treat it in order to get it to the market?—A. I do not know how that is done. I believe they steam it up and get what oil they can in that way; and I understand that they have been cleaning out a great many tanks, and steaming this sediment and separating it in that way.

Q. State whether or not, within the period that you now speak of, the amount of petroleum stored in the Pennsylvania regions above the surface of the earth in tanks has not been decreasing?—A. Yes, sir.

Q. State whether or not the Standard Oil Company has not been cleaning out and taking away a great many of their tanks in order to erect them in the Lima field to hold the oil that is accumulating there?—A. Yes, sir; it is.

Q. State whether or not, when any particular character of oil or kind of oil is put into a through pipe line, that oil will not pass on and keep its relative position, so that when it comes to a place of delivery they can see exactly what kind of oil is coming when it comes out?—A. Certainly.

Q. Is there not a great difference in the oil produced in different regions in Pennsylvania?—A. Yes, sir.

Q. And do they not all pass through the main pipe to market?—A. Not all of them; they have some special oils; some oils that are used for special purposes, shipped by tanks altogether.

Q. But there are different regions of oil which are united through a system of local pipes reaching the same main pipe?—A. Yes, sir.

Q. Take the Washington oil for instance; that comes to your market through the same pipe line that brings the Bradford oil?—A. Yes, sir.

Q. Is not the Washington oil considered commercially much better oil than any other?—A. Yes, sir.

Q. What does it bring?—A. A premium of 8 cents.

Q. Higher than any others?—A. No, sir; the lower region is 8 per cent. premium compared with the Bradford.

Q. That oil, which is worth 8 cents per barrel more than the oil at the upper regions, passes to the market in the same pipe that carries the other oil?—A. Yes, sir.

Q. It takes its relative position in the tank?—A. Yes, sir.

Q. It does not displace what is ahead of it or what is coming out after it?—A. No, sir.

Q. When that reaches the delivery station at Milton or the tanks in New York, the moment it appears the men can tell it?—A. Yes, sir.

Q. The person having control of the distribution and delivery of oil, if he chooses, can direct to you or any other shipper just such character of oil as he pleases?—A. For that matter it could be kept in tanks at Milton separate and ready for delivery to the different refineries.

Q. When that oil is passed through this pipe line, which at Milton has a station for either putting it into the tanks or loading it into racks on the railroad, or which continues beyond Milton to the sea-board ports, the man who watches the flow of oil at that point, the moment he sees any particular oil coming, can either direct it to tide-water, turn it into a tank, or can, by turning another cock, load it into tank cars if he pleases?—A. Yes, sir; just as he chooses.

By Mr. BUCHANAN:

Q. It is your judgment, then, that different kinds of oil in the same pipe do not mix?—A. No, sir; not to any extent. I want to say that it is not my judgment that it is the difference that is allowed between

what is called lower country oil and fresh Bradford oil at all—the difference of 8 cents. I do not think that Washington oil, for example, is worth that much more than Bradford oil is.

By Mr. GOWEN :

Q. As a matter of fact you do not?—A. I do not.

Q. In the market does it bring that?—A. Yes, sir; it brings more.

Q. Is it not readily distinguished from the Bradford oil by color alone?—A. Yes, sir.

Q. So that it is, in a commercial point of view or in a transportation point of view, entirely practicable out of one particular pipe line, which may contain in the same two or three hundred miles of its length five or six different qualities of oil, to deliver each of the different qualities at its destination, or to direct its destination differently or otherwise?—A. Yes, sir; there is no trouble about that.

Q. Now, I will ask you whether, as a refiner and shipper of oil, you have ever made application to packet or other lines of shipping to carry your oil from Philadelphia on the ocean or by inland navigation to seaboard ports of the United States?—A. No; we never have.

Q. Have you ever met with any refusal on the part of any one to carry oil for you away from Philadelphia in the packet lines?—A. No, sir; we never attempted to ship oil in that way.

Q. You never attempted to supply the Atlantic coast of the United States with refined oil by ocean?—A. No, sir.

Q. Your shipping has been to foreign markets?—A. Yes, sir.

Q. Do you ship it direct or ship it on your own account?—A. We sell it direct.

Q. You do not sell on commission?—A. No, sir.

By Mr. BUCHANAN :

Q. You spoke of there being a difference in quality of the product of different fields. Is there any difference in the products of different wells in the same field?—A. No, sir; there is a slight difference on account of the different sands. There are second and third, and some places fourth sands. There is a little difference in the character of the oil coming from the different sands, but the difference in the appearance of it is not of much consequence.

Q. Is there any variation in the character of the product of any one well at different periods?—A. No, sir.

By Mr. GOWEN :

Q. Mr. Emery testified here (and as he was your partner I do not ask you to go over the same ground again) that you were practically driven out of business by the discrimination against you and the receipt of bad oil?—A. Yes, sir; every possible obstacle was placed in our way.

Q. Now, I will ask you, in your judgment, if you had had the same facilities that your rivals connected with the Standard Oil Company have had, and received the same kind of oil with regularity, whether you would have been driven out of your business?—A. Certainly not.

Q. Do you know any better place than that at which you were located for the purpose of a refining establishment?—A. No, sir; there is no better refinery doing the work.

Q. Are they doing the work at that refinery now?—A. No, sir; they have never done anything with it since it has been idle.

Q. That refinery was located on the Delaware River?—A. Yes, sir.

Q. Where you could have ships come from all parts of the world?—A. Yes, sir; we had every possible facility for making illuminating oil.

EDGAR HILL—Recalled.

By Mr. GOWEN:

Q. I understand that you wanted to make some statement as to how you have conducted your business since the passage of the interstate-commerce act.—A. Yes, sir.

Mr. GOWEN. You have the right to say what you desire in that connection.

Mr. BUCHANAN. Not only that, but the committee desire to know.

The WITNESS. I would like to say that since the passage of the interstate-commerce law our rates have been the same to all persons in every respect.

By Mr. GOWEN:

Q. Under similar circumstances?—A. Yes, sir; under similar circumstances.

Q. But you did maintain after the passage of the interstate-commerce law, a different rate on oil in tank cars from the rate on oil in barrels, did you not?—A. No, sir; we claim that it is the same.

Q. Did you maintain the same rate?—A. Yes, sir.

Q. Then this recent decision of the Interstate Commerce Commission has had no effect on your rates?—A. No, sir.

Q. And since the passage of the interstate-commerce law your rate upon oil in tank cars has been the same per hundred pounds as your rate in barrels?

By the CHAIRMAN:

Q. The difference in rates which you have charged on oil in tanks and oils in barrels has been what? I think you stated it when you were on the stand before.—A. I claim it is the same per hundred pounds.

Q. What is the rate?—A. Take from Cleveland to East Saint Louis, it is 47 cents a barrel in tanks and 62 cents in barrels.

Q. And the difference, as I understood your testimony this morning, you claim to be for the weight in the barrel?—A. Yes, sir.

By Mr. GOWEN:

Q. That will not make quite the difference, will it, Mr. Hill?—A. Well, according to the way we figure it, we claim it is exactly the same.

Q. If you carry 315 pounds for 47 cents, according to the rule of three, you ought to get less than 62½ cents for 400 pounds.—A. Well, you know those rates are estimated.

Q. But 315 pounds for a barrel of crude oil is an exact rate, and 400 pounds for a barrel of oil shipped in barrels is an overestimated rate.—A. Four hundred over the estimate?

Q. You know it is the amount at which railroads generally calculate it, but the barrels do not actually weigh that.—A. We claim that they weigh more, those that we ship.

Q. Of refined oil in barrels?—A. Yes, sir; we call them 400 pounds, but there is no barrel of oil shipped that weighs less than 400. It weighs more than 400 pounds, although we call it 400.

By Mr. CROUSE:

Q. I wish to ask Mr. Hill, simply to get it clear in my mind, if it is the intention and the practice to charge just the same for oil in tanks as oil in barrels, except the weight of the barrel added?—A. That is it.

Q. That is the intention?—A. Yes, sir.

Q. And if it is not done absolutely, it is because of the variance of the weights of the barrel?—A. Yes, sir.

By Mr. SMITH:

Q. Is there a difference in the charge made between the handling of the barrel and the handling of the tank—tank cars? You understand you have to handle the barrel on the way, do you not?—A. Not always.

Q. But there is more labor about a car loaded with oil in barrels, is there not?—A. Yes, sir; if we handle it there is.

Q. Is there any charge for that over your line?—A. No, sir.

Q. The charge is only made for the difference on the barrel?—A. Yes, sir.

Q. Does the shipping of oil in barrels in cars affect the car so that you can not use it for other kinds of freight?—A. Yes, sir; very materially. We do not permit oil to be loaded in our box cars at all.

Q. What kind of cars do you use?—A. We use cattle cars.

Q. Has it any effect upon cattle?—A. No, sir.

Witness excused.

TESTIMONY OF E. W. HOWE.

E. W. HOWE, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Memphis, Tenn.

Q. What is your position?—A. General freight agent of the Louisville, New Orleans and Texas Railroad.

Q. You were asked to bring with you a statement of the rates and rebates on oil carried over your road for the years 1886, 1887, and 1888. Have you made up such a list?—A. No, sir; I have not.

Q. Why?—A. I was only served with the subpoena Friday afternoon and left for Washington Sunday night, so that I had no time to prepare the statement.

Q. Can you tell us if there is any difference in the rate on oil in tanks and oil in barrels going south over your road?—A. No, sir; there is no difference at all at present.

Q. When was that change made?—A. At the time of the late decision of the Interstate Commerce Commission.

Q. Up to that time what were they?—A. From Louisville 75 cents per barrel and \$50 per tank car.

Q. If the car held 100 barrels that would be 55 cents a barrel?—A. Yes, sir.

Q. What is the usual capacity of a tank car?—A. I have learned a good deal more about it since this investigation than I ever knew before.

Q. Some of them will hold 120 barrels, will they not?—A. A hundred and ten any way.

Q. Since that decision of the Interstate Commerce Commission you look out for the weight pretty closely?—A. Very carefully; yes, sir.

Q. You will get your full freight?—A. Yes, sir.

Q. You do not intend in the future your company shall carry greater bulk except for greater payment?—A. No, sir.

Q. Up to the time you made the change, since the Interstate-commerce decision, and say two years prior to that, had there been any change in the rate on tank cars?—A. I do not know. I only took the

road in August, 1886. From that time up to date there had been no change that I know of.

Q. From the time you took the road up to the time of the Interstate-commerce decision had you made any changes on barrel rates?—A. I do not make the rate beyond Louisville, but there has been no change over our line from Louisville—only from Memphis to New Orleans.

Q. You prorate with the initial company?—A. Yes, sir.

Q. Can you tell us of any rebates or allowances having been given on this \$55 rate during the time you have been connected with the road?—A. No, sir; I can not. I have not had time to look over my record.

Q. But would you not remember it if it had occurred during the time you had jurisdiction?—A. Yes, sir.

Q. Do you remember any such case?—A. No, sir.

Q. Can you tell whether there were any?—A. No, sir.

Q. Will you when you get home look over your records and inform the committee if any rebates were allowed, what they were, and to whom given; that is, who was the consignor?—A. Yes, sir.

Q. You can do that?—A. Yes, sir.

Q. Only confining yourself to cases where there were rebates, assuming that if there were none the rate was a public rate?—A. Yes, sir; I will do that.

STATEMENT OF COAL OIL AND NAPHTHA SHIPMENTS.

OFFICE OF THE GENERAL FREIGHT AGENT,
LOUISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY,
MISSISSIPPI VALLEY ROUTE,
Memphis, Tenn., June 14, 1888.

DEAR SIR: I hand you herewith a statement showing instances of billing covering shipments of coal oil and naphtha over this company's line from March, 1886, to May 5, 1888. The items checked in pencil, on right-hand margin of the first page, were overcharged in rebilling at Louisville and refunded to the same rate as shipments made about the same time, as shown in the same memorandum. Upon careful examination I do not find any instances in which this company has participated in rebates to the Standard Oil Company or any other concern.

Yours, truly,

E. W. How,
General Freight Agent.

HENRY BACON, Esq.,
Chairman Committee on Manufactures, House of Representatives,
Washington, D. C.

* Indicated in the print by an asterisk (*).

Louisville, New Orleans and Texas Railway Company, claim department.
 [From various—to Louisville, New Orleans and Texas—common points.]

Billing reference.			Article.	Weight.	Rate.	L. N. O. and T. freight.	From.	Destination.	Via.	Total.
Date.	No. W. B.	No. car.								
1890.										
Mar. 1	110	a256 O. & M.	100 bbla. oil	38,000	23.1	23.10	Cind.	Harrison	Mf.	
8	293	2200 U. T. L.	1 tank naphtha (Natches, Miss.)	20,000	15.2	22.14	Louis	Vzbg.	do	
12	1104	2035 S. W.	80 bbla. oil; 100 ca. oil	38,000	21.2	21.20	Cind.	do	do	
26	2221	4780 C. W. & B.	50 bbla. oil; 250 ca. oil	38,000	21.2	21.20	Marletta	do	do	
Apr. 4	247	2200 Tank.	1 tank naphtha	20,000		22.14	Loul.	do	do	
9	675	425 L. & T.	70 bbla. oil	20,000		22.19	do	G'ville	do	
May 10	610	482 L. & T.	70 bbla. oil	24,250	48.7 5.6 31.7	23.19	do	do	do	
10	605	1346 U. T. L.	1 tank naphtha (*)	25,000		54.24	do	N. O.	do	
12	751	5378 O. & M.	100 bbla. oil	38,000	21.5	21.50	Marletta	Vzbg.	do	
19	1280	1927 U. T. L.	tank oil (*)	25,000		54.24	Cleve.	do	do	
June 3	50	3303 U. T. L.	1 tank oil	25,000		27.27	do	N. O.	do	
10	251	4986 L. S. & M. S.	100 bbla. oil	38,000	31.85	31.85	do	do	do	
26	1836	1846 C. O. and S. W.	60 bbla. oil	24,000	30	18.84	Louis	do	do	
July 2	142	2136 L. & N.	70 bbla. oil	24,250	44.3 56 57.7	24.11	do	G'ville	do	
19	1377	4826 C. W. & B.	100 bbla. c. oil	38,000	23.57 20.87	20.87	Marletta	Vzbg.	do	
18	1296	1890 S. W.	65 bbla. oil	24,375	22.1	31.44	Louis	do	do	
22	1611	1876 S. W.	65 bbla. oil (Natches, Miss.)	24,375	12.9 16.3 13.7	33.39	do	Harrison	do	
29	2223	95 L. M. & T.	60 bbla. c. oil	22,500	5 18.9 11.1	24.98	do	Vzbg.	do	

STANDARD OIL TRUST.

Billing reference.			Article.	Weight.	Rate.	L. N. O. and T. freight.	From.	Destination.	Via.	Total.
Date.	No. W. B.	No. car.								
1898.										
July 31	2391	189	70 bbla. c. oil	24,250	18.9	47.51	Louis	Grville	Mfs .....	.....
Aug. 4	305	L. & T. 1115	69 bbla. l. oil	29,000	18.1	65.83	....do	N. O.	do .....	.....
12	884	C. & A. 422	60 bbla. l. oil	24,000	22.7	18.84	Cleve	do	do .....	.....
12	882	L. & T. 1059	40 bbla. oil	22,800	30	31.4	Marrietta	Vxbg	do .....	.....
		O. & W.	100 cans oil (20 bbla.) (Shreveport, La.)	22,800	58	28.04	.....	.....	.....	.....
25	1862	2038	70 bbla. c. oil	24,250	18.9	22.14	Loui	Grille	do .....	.....
		C. O. & S. W.	100 bbla. oil	44,000	11.1	31.90	Parkersb'g	N. O.	do .....	.....
23	151	.....	1 tank oil	20,000	31.9	27.59	....do	do	do .....	.....
26	170	Tank	50 bbla. l. oil	24,000	27.59	16.75	"C. O. and S. W."	do	do .....	.....
Sept. 1	128	670	.....	.....	68.8	.....	.....	.....	.....	.....
		S. W.	60 bbla. c. oil	22,800	58	12.62	Marrietta	Vxbg	do .....	.....
13	1505	3392	.....	22,800	22.7	31.14	Loui	N. O.	do .....	.....
23	2329	O. & M. 4557	60 bbla. oil	22,800	24.4	.....	.....	.....	.....	.....
		C. W. & B.	(So. Pac.) .....	.....	49.7	19.39	....do	Grille	do .....	.....
Nov. 14	1534	2139	70 bbla. c. oil	24,250	27.57	.....	.....	.....	.....	.....
		S. S. V.	30 bbla. l. oil	12,000	33.98	10.69	....do	N. O.	do .....	.....
20	2210	L. & T.	(So. Pac.) .....	.....	33.41	.....	.....	.....	.....	.....
		.....	65 bbla. c. oil	24,750	35.61	18.00	....do	Grille	do .....	.....
20	2763	628	1 tank naphtha	20,000	47.3	19.40	....do	Vxbg	do .....	.....
20	2037	K. C. S. and M. 2305	.....	.....	27.7	.....	.....	.....	.....	.....
		U. T. L.	100 bbla. c. oil	38,000	15	24.90	....do	do	do .....	.....
27	3045	1074	70 bbla. c. oil	28,250	58	19.39	....do	do	do .....	.....
28	3092	O. & M. 1924	1 tank carbon oil	20,000	24.9	22.14	....do	do	do .....	.....
		S. W.	55 bbla. c. oil; 30 bbla. c. oil	24,250	27.7	28.25	....do	N. O.	do .....	.....
30	3319	Tank. 1925	1 tank oil	20,000	27.14	28.10	....do	do	do .....	.....
Dec. 2	236	S. W. 1407	60 bbla. oil	24,000	31.73	12.43	....do	do	do .....	.....
		U. T. L. 9071	.....	.....	28.1	.....	....do	do	do .....	.....
12	1333	W. X. P. ....	.....	.....	28.9	.....	....do	do	do .....	.....

38	1887.	2883	89015	2504 oil	20,000	67.8	18.00	Cleveland.	do	do	.....
1887.	Jan. 8	601	O. & M.	(Equals 50 bbls.)	20,250	57.2	17.57	Loui	do	do	.....
11		883	C. & O.	40 bbls. oil..... (Jackson, Miss.)	22,500	42.9	15.00	do	Harrison	do	.....
18		1068	N. N. & M. V.	60 bbls. oil..... (Natchez, Miss.)	20,000	23.1	14.45	Cinti	N. O.	do	.....
Feb. 2		264		50 bbls. oil.....	24,000	25	27.00	Newberg	do	do	.....
3		218	O. & M.	60 bbls. oil.....	24,250	28.9	23.80	Loui	G'ville	do	.....
Apr. 7		780	S. W.	70 bbls. c. oil.....	24,875	44	18.00	Louis	Vzbg	do	.....
18		1489	L. & T.	65 bbls. c. oil.....	20,625	27.7	22.08	do	N. O.	do	.....
20		1719	L. & T.	55 bbls. c. oil.....	20,000	34.7	23.10	do	do	do	.....
22		1880	U. T. L.	1 tank oil.....	24,875	38.3	18.25	do	Horton	do	.....
May 3		181	L. & T.	65 bbls. c. oil..... (Natchez, Miss.)	20,625	28.1	19.67	do	Grille	do	.....
24		1890	L. & T.	65 bbls. c. oil..... 2 drums oil.	22,500	35.7	23.58	do	N. O.	do	.....
June 5		397	L. & T.	3004 c. oil.....	22,500	30.3	23.70	do	do	do	.....
16		×9	L. & T.	3004 c. oil.....	20,000	38.5	23.10	do	do	do	.....
Aug. 14		1184	U. T. L.	1 tank naphtha.....	24,875	Time.	20.20	do	Vzbg	do	.....
Sept. 25		2623	L. & T.	65 bbls. c. oil.....	20,000	32.00	20.34	do	do	do	.....
Dec. 27		3736	U. T. L.	1 tank naphtha.....	24,875	27.2	17.99	do	G'ville	do	.....
1888.	Jan. 3	×8	L. & N.	60 bbls. c. oil.....	24,750	28.29	31.16	do	N. O.	do	.....
10		×91	L. & N.	65 bbls. c. oil.....	24,520	2.00	23.74	do	do	do	.....
5		522	U. T. L.	1 tank naphtha.....	37,922	2.00	23.70	do	Vzbg	do	.....
			C. O. & S. W.	63 bbl. c. oil; 10 hlf. c. oil.....		16					
			E. C. & W. L.	1 tank carbon oil.....		19					
						38.00					
						2.00					
						38.70					

Louisville, New Orleans and Texas Railway Company, claim department—Continued.

Billing reference.			Article.	Weight.	Rate.	L. N. O. and T. freight.	From.	Destination.	Via.	Total.
Date.	No. W. B.	No. car.								
1888.										
Jan. 6	606	4949	65 bbbls oil	23,000	19.99	19.99	Louis	G'ville	Mfrs	
9	893	L. & N. 1059	65 bbbls oil	25,350	7	17.74	do	do	do	
15	1698	L., N. O. & T. 25018	1 tank c. oil	24,702		15.49	do	Vzbg	do	
19	2019	L. & N. 109	66 bbbls oil	23,401		20.46	do	do	do	
Feb. 12	1690	M. D. T. 3707	1 tank oil	37,500		21.17	Cinti	do	do	
1	X4	U. T. L. 6432	1 tank oil	24,186	15.4 2.00 5.3	14.28	Louis	do	do	
1	X6	U. T. L. 2507	50 bbbls c. oil; 504 c. oil	23,400	16	16.40	Chic, Marietta	do	do	
10	X85	V., S. & P. 7357	66 bbbls c. oil	25,740	19	18.05	Cleve	do	do	
10	X90	L., N. O. and C. 1478	3004 carbon oil	24,000	19	18.83	do	do	do	
Apr. 6	768	C. C. G. & I. 28026	65 bbbls oil	23,000	8.5 6.2	18.12	Marietta	Harrison	do	
9	X62	B. & O. 4839	1 tank carbon oil	37,500	4	21.63	Louis v.	Vzbg	do	
9	X63	U. T. L. 3832	60 bbbls c. oil	24,000	18	16.24	Marietta	do	do	
17	2102	B. & O. 89	53 bbbls carbon oil; 1 drum carbon oil	24,000	11.4	15.84	Louis v.	Grille	do	
May 2	199	L. & T. 3944	60 bbbls c. oil	24,000	11.3	18.08	do	do	do	
4	X25	L. & N. 8470	60 bbbls c. & l. oil	24,100	7.2	21.12	Cleve., Lou	N. O.	do	
5	1015	M. V. 3938	60 brls. ref. oil; 14 ref. oil	24,000	11.73	12.43	Louis	Hrston	do	
Jan. 23	2482	C. A. & C. 2064	65 bbbls oil	23,350	8.8 6.2 4	15.81	do	do	do	
		C. O. & S. W.	(Natches, Miss.)							

Witness excused.

The CHAIRMAN. Is Mr. Lloyd here?

Mr. GOWEN. Yes, sir; and has stated he would decline to furnish the statement of rebate which when here last week he promised to furnish, unless directed by the committee. During your absence he was examined and gave the reason for that refusal. The reason I think he differs from anybody else, and why the amounts paid to him should be ascertained, is that in Mr. Cassatt's testimony given in the year 1879, fixing the amount of rebate at 49 cents and 51½ cents and 64½ cents to the Standard Oil Company, Mr. Cassatt also testified there was one other shipper who received rebates, but not to the same amount, and that was Malcolm Lloyd, of Philadelphia. I would like to know what he got at that time, so as to compare it with the amounts paid to the Standard Oil Company. Mr. Lloyd stated that he admitted the fact that he got the rebates and continued to get them, but does not think he ought to be asked to tell what they were, as he may be asked to testify in a private suit in Pennsylvania upon these points.

MALCOLM LLOYD—Recalled.

By the CHAIRMAN:

Q. Have you been subpoenaed?—A. No, sir.

Q. In any private suit?—A. No, sir; but I feel that as long as Mr. Cassatt has testified to the fact of these rebates being paid, and as long as I have admitted having received them, that so far as the public good is concerned, and so far as any good which will come from my evidence to the committee of that fact is concerned, I do not feel that I ought to be called upon to do more. It is a purely private matter. There is nothing I care about hiding in the matter, but the Pennsylvania Railroad officials were here, and I supposed as a matter of course that information should have been gotten from them.

The CHAIRMAN. Mr. Lloyd, they were excused, I should say to you, because we supposed we had the information through you. We had your promise to furnish it and it was entirely idle to go over the question again.

Mr. BUCHANAN. The committee had the fact that you had received these rebates, that you had promised the committee you would produce the statement of them, and that you were no longer in receipt of those rebates, having gone out of business. That was the matter that was presented to the committee.

Mr. LLOYD. Yes, sir.

Mr. GOWEN. I was going to say that so far as I am concerned I understand Mr. Lloyd to have admitted that he received these rebates practically up to the time he went out of business.

Mr. LLOYD. No, sir.

Q. What did you say when you were here last week?—A. That I had received no rebates in the last three years.

Q. Of any kind?—A. No, sir.

Q. On crude or refined?—A. No, sir.

Q. Mr. Cassatt's testimony was that the Standard Oil Company received from the upper region 49 cents and from the lower region 51½ cents, included in that being the sum of 22½ that was paid to the American Transfer Company. Now, bearing in mind those two, the aggregate of 49 and 51½, I will ask you whether your rebates were less or more than that?—A. In what year?

Q. Up to the year 1880.—A. I could not answer without some calculation. Those rebates were simply based upon the equalization of oil to make shippers, as far as I could understand, even in their manufacturing and in their positions.

Q. Were those rebates less or more than 49 cents a barrel from the upper region?—A. In 1879 and 1880?

Q. Yes; up to that time.—A. They were less.

Q. And were they less than 51½ cents from the lower region?—A. I did not ship oil from the lower region.

Q. You got all yours from the Bradford region?—A. Yes, sir.

Mr. GOWEN. That is all I care about if the committee is satisfied with that.

The CHAIRMAN. We can dispose of that in a few moments in executive session.

The committee then went into executive session, and afterwards adjourned until 11 o'clock on Wednesday, May 2, 1888.

WASHINGTON, D. C., *Wednesday, May 2, 1888.*

The committee met at 11 a. m.

Present: The chairman.

TESTIMONY OF A. F. BROADDUS.

A. F. BROADDUS, sworn and examined.

Mr. GOWEN. Mr. Broaddus and Mr. J. M. Culp are officers of the Louisville and Nashville Railroad, and I have just been handed by Mr. Baxter, who is their counsel, an application to the committee to relieve these gentlemen from testifying. Mr. Baxter desires to take that question up now, I understand.

Mr. BAXTER. Mr. Chairman and gentlemen of the committee, I have had prepared for the convenience of the committee the substance of what I wish to say, and as my objection goes not to any particular question, but to the examination of these witnesses at all on the matters of inquiry submitted to the committee, I have placed in the first section of my argument the resolution under which this honorable committee is acting.

In the second section will be found the schedule which accompanied the subpoena which was served upon Mr. Culp and Mr. Broaddus, which subpoena charged them to appear before the committee and testify concerning the matters of inquiry submitted by said committee, and to bring before it the books and papers mentioned in that schedule. The schedule, as you will see, on page 3, calls for the papers or documents of the company during the last ten years relative to shipments of petroleum, whether in bulk or by barrel, in tank cars and in barrels, and also various other matters that I will not detain the committee by enumerating. Since the subpoenas were served the counsel of the committee has been kind enough to reduce that period of ten years to five, and has notified me that the examination of the witnesses, as you will find stated in section three of my argument, on page 4, "will be directed to railway discrimination in oil rates, enabling monopolies to control the oil traffic; and that said witnesses will be asked to testify as to oil rates and drawbacks, and produce books and papers relating to the same; also

as to rates and drawbacks on freight carried as back-loading in tank cars."

These two gentlemen are officers of the Louisville and Nashville Railroad Company. Mr. Culp is the general freight agent, and Mr. Broadus division freight agent of that company, and are here in obedience to the subpoena, and state here their objections to be required to give the testimony called for in section 3. It was understood that that is all the counsel of the committee desires to interrogate them in regard to.

Mr. Baxter then read his argument, which is as follows:

House of Representatives, Fiftyeth Congress. Before the Committee on Manufactures. In the matter of the application of J. M. Culp and A. F. Broadus to be excused from testifying.

ARGUMENT.

I.

On January 25, 1888, the House of Representatives passed the following resolution:

[Fiftyeth Congress, first session.]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
January 25, 1888.

Mr. Bacon, from the Committee on Manufactures, submitted the following, which was agreed to:

Whereas it is alleged that certain individuals and corporations in the United States engaged in manufacturing, producing, mining, or dealing in some of the necessities of life and other productions have combined for the purpose of controlling or curtailing the production or supply of the same, and thereby increasing their price to the people of the country, which combinations are known as associations, trusts, pools, and like names; and

Whereas such combinations not only injuriously affect commerce between the States, but impair the revenues of the United States as derived from its duties on imports: Therefore,

Resolved, That the Committee on Manufactures be, and the same is hereby, directed to inquire into the names and number and extent of such alleged combinations, under whatever name known, their methods of combination or doing business, their effect upon the prices of any of the necessities of life and of all productions to the people of the country, upon its internal or foreign commerce, and its revenues from import duties, together with any and all other matters relating to the same which may call for or suggest legislation by Congress, and report the same to the House, with such recommendations as the said committee may agree upon. And for these purposes the Committee on Manufactures is authorized to sit during the sessions of the House, to employ a stenographer, to administer oaths, examine witnesses, compel the attendance of persons, and the production of papers. And the expense of such investigation shall be paid out of the contingent fund of the House.

Attest:

JNO. B. CLARK, Clerk.

II.

J. M. Culp, the general freight agent, and A. F. Broadus, a division freight agent of the Louisville and Nashville Railroad Company, have been summoned to appear before said committee "to testify touching matters of inquiry committed to said committee," and to bring with them the books, documents, and papers mentioned in a certain schedule, a copy of which is as follows:

"(1) The said J. M. Culp is to bring with him all rebate and drawback books, and all other books, accounts, and statements of the Louisville and Nashville Railroad Company, and of his department of said company, showing—

"First. Amounts of, or entries or accounts of, all rebates, allowances, drawbacks, deductions, or car service paid, allowed or credited to, or claimed by, any and all shippers over the railroad lines of said company, or any of them, or any part or branch thereof, during the last ten years up to the date hereof, for or on account of any shipments of petroleum, crude or refined, or the products of petroleum, whether in bulk or by barrel, or other shipments, or for or on account of any shipments of any other oil, or turpentine, or material or product whatever, carried in tank cars over said lines or any part thereof,

"*Second.* All shipments of coal-oil, crude or refined, or of other products of petroleum over said lines, or any of them, during the years 1886, 1887, and 1888, the names of the shippers, the extent and amount of shipment, the kind of cargo, and the weight or bulk thereof, the rate of freight charged and received, the length of haul, with point of origin and destination on said lines, the amount of deductions, allowances, or rebates paid, allowed, credited, or claimed on each shipment, and the amount of car-service allowed, paid, credited, or claimed on each.

"*Third.* The extent to which any car which carried crude or refined petroleum, or the products of petroleum, over said lines or any part thereof, was loaded as return freight with any material whatever, the character of such return freight, the name of its consignor and consignee, the weight and bulk of cargo, the rate charged, and the rate paid for freight thereon, and the allowance, drawback, rebate, and car-service paid, allowed, credited, or claimed on each such shipment and car; and what car-service, if any, in addition to above, was allowed on each of any of the above cars passing empty over said lines, whether on return trip or in being transferred for loading from one portion of said lines to another.

"(2) Also, to bring with him all contracts in writing or print, or memorandum of any kind of any verbal contracts, and all letters received by him or his department or by said company, and copies of all letters sent by him or his department or said company pertaining, relating, or referring to shipments, rates, charges, allowances, rebates, drawbacks, deductions, or car-service upon, or by reason of, or on account of, shipments of crude or refined petroleum, or the products of petroleum, or of any back-loading transported over said lines, or any part thereof, in cars which had carried crude or refined petroleum, or any products of petroleum, for the last ten years up to the present date."

III.

Since the subpoenas were served, the counsel for the committee has reduced the period of ten years, mentioned in the schedule, to five years, and has said that the examination of said witnesses "will be directed to railway discrimination in oil rates, enabling monopolies to control the oil traffic;" and that said "witnesses will be asked to testify as to oil rates and drawbacks, and produce papers and books relating to the same; also as to rates and drawbacks on freight carried as back-loading in tank cars."

IV.

In order that the committee may fully appreciate the motives which influence said witnesses in objecting to testify in regard to the matters above referred to, it is proper to inform the committee that George Rice, a citizen of Marietta, Ohio, on the 19th day of July, 1887, filed complaints before the Interstate Commerce Commission against said Louisville and Nashville Railroad Company and ten other railroad companies, charging said companies with having discriminated against him and in favor of the Standard Oil Company of Kentucky in the shipment of petroleum, and especially in charging lower rates on oil shipped in tank cars than on oil shipped in barrels.

The hearing of testimony before the Interstate Commerce Commission occupied the time from November 21 to November 28, 1887, and the transcript of the testimony made a volume of 529 printed pages. The argument of counsel consumed several days in January, 1888, and the present counsel for this committee appeared on that occasion as counsel for said Rice and made an argument on his behalf.

The Interstate Commerce Commission decided that the rates on oil in barrels should be the same as on oil in tanks, and the Louisville and Nashville Railroad Company, while respectfully differing from said Commission, adjusted its rates on oil so as to conform to said decision; and they have continued in conformity therewith ever since.

The said Rice also filed a bill against said company in the United States circuit court at Louisville, Ky., charging certain discriminations against him in favor of said Standard Oil Company, which discriminations appeared to have happened before the act of Congress "to regulate commerce" was passed. The bill was dismissed upon demurrer, upon the ground that there was no law in force at the time the alleged discriminations were made which rendered them illegal.

The said Rice is in daily attendance upon this committee, and his former counsel, in conducting the examination of witnesses, has made use of certain correspondence which the said Rice has had with divers persons.

While the witnesses whom I represent recognize the perfect right of Mr. Rice and his former counsel to appear before this committee, they are unwilling to submit to a re-examination of the same matters that were settled by the decisions of the Interstate Commerce Commission and of the United States circuit court above referred to.

If Mr. Rice is not satisfied with those decisions he has his remedy by appeal or other appropriate revisory judicial proceeding; but as this committee has no judicial

powers, *Mr. Rice has no right to ask this committee to grant him a rehearing or new trial of the cases which have been disposed of in the proper judicial tribunals.*

And it is respectfully submitted that it is not treating either of those tribunals with proper respect to allow Mr. Rice to obtain by indirection, before this committee, a rehearing or review of their decrees.

J. M. Culp, one of the witnesses now sought to be examined, was examined by Mr. Rice before the Interstate Commission, and his testimony, covering seventy-two printed pages, is accessible to this committee.

It is respectfully, but earnestly, insisted that a citizen ought not to be harassed and annoyed by being subjected to repeated examinations upon the same matters, requiring his absence from important official duties.

V.

If the decisions of the Interstate Commerce Commission and of the United States circuit court can not be reviewed or reversed by this committee the testimony called for from these witnesses will be wholly irrelevant and utterly worthless for any *judicial* purpose, except that it may enable Mr. Rice to discover some fact which he failed to discover on the hearing before the Interstate Commission, and upon which newly-discovered testimony he may institute some new proceeding in some tribunal that he supposes has jurisdiction of the subject-matter.

But it is beneath the dignity of this committee to allow itself to be used by private litigants as a Spanish inquisition, to extort confessions from witnesses to subserve the purposes of future litigation between individuals; and it is not believed that this committee will allow its process or its powers to be abused for any such purpose.

VI.

Up to this point I have addressed myself to the discretionary action of the committee, and have sought to show that, even if the committee had the power, it ought not to exercise it, to compel the witnesses to answer, considering the peculiar and sinister circumstances under which they are interrogated.

But I now come to the *jurisdictional* questions in the case.

They will be found to involve two important constitutional points, each worthy of the gravest consideration:

First. They involve, in the language of Mr. Justice Field, "the right of the citizen to protection in his private affairs against the unlimited scrutiny of investigation by a Congressional committee."

Second. They also involve, in the language of the same justice, the power of Congress to compel witnesses "to furnish information upon any subject which, in its judgment, it may be important to possess."

While it is expected that this committee will, as it ought to, uphold the privileges and prerogatives of Congress, as they may be found to exist, yet I feel assured that the committee will be equally jealous of the constitutional rights of the citizen, especially as the sanctity of his private affairs is directly involved, and his personal liberty is indirectly involved.

Fortunately for this committee, all of the questions involved here have been decided by the Supreme Court of the United States in *Kilbourn vs. Thompson* (103 U. S. Rep., p. 168), and *Boyd vs. United States* (116 U. S. Rep., p. 616).

Those two cases were reviewed, and their principles applied, by Justice Field and Judges Sawyer and Sabin "in the matter of the application of the Pacific Railway Commission," reported in 32 Fed. Rep., and also in pamphlet form.

This committee is relieved of all responsibility, except that of applying the principles decided in those cases to the facts of this case.

VII.

In the *Kilbourn* case it appeared that the firm of Jay Cooke & Co. were debtors of the United States, and it was alleged that they were interested in the "real-estate pool" in the city of Washington, and that the trustee of their estate and effects had made a settlement of their interests, with the associates of the firm, to the disadvantage and loss of numerous creditors, including the Government of the United States. The House of Representatives, by a resolution reciting these facts, authorized the Speaker to appoint a committee to inquire into the matter and history of said "real-estate pool," and the character of the settlement, with the amount of the property involved, in which Jay Cooke & Co. were interested, and the amount paid, or to be paid, in said settlement, with power to send for persons and papers.

Kilbourn appeared before the committee and was asked to state the names of "the five members of the real-estate pool and where each resided." He declined to answer, and was imprisoned by the House for contempt.

The Supreme Court decided that "there was no power in Congress, or in either house," on the allegation that an insolvent debtor of the United States was interested in a private partnership, to investigate the affairs of that partnership, and consequently no authority to compel a witness to testify on the subject.

In the matter of the application of the Pacific Railway Commission, it appeared that Congress appointed a commission to investigate "the books, accounts, and methods of railroads which have received aid from the United States," and to inquire and report whether "said companies, or either of them, or their officers or agents, have paid any money or other valuable consideration or done any other act or thing, for the purpose of influencing legislation."

Mr. Stanford, president of one of the companies, was asked by the Commission "whether any portion of the moneys, covered by certain vouchers, was paid to certain parties for the purpose of influencing legislation." He refused to answer; and it was held by Justice Field and Judges Sawyer and Sabin, that he could not be compelled to answer.

The decision was not placed upon the ground that the answer of the witness might tend to criminate him, nor alone upon the ground that the courts of the United States could not be required to act as adjuncts to Congressional committees; but the court took the broad position that the United States had no interest in the expenditures of the Central Pacific Railroad Company under vouchers which have not been charged against the Government in the accounts between them; and that the Commission had "no power to investigate such expenditures against the will of the company and its officers."

The case before this committee is a much stronger case for us than either of the cases cited, because none of the "associations, trusts, or pools" which this committee is authorized to investigate are indebted to the United States, nor has the United States any claims or demands against the Louisville and Nashville Railroad Company, nor against any of the other railroad companies who may be supposed to have discriminated in oil rates to enable said monopolies to control the oil traffic.

In a word, the Supreme Court held in the Kilbourn case that, though the United States were interested, as a creditor of Jay Cooke & Co., in recovering the funds which had been wrongfully put into the "real-estate pool," the interest was one which the Government must assert by *judicial*, and not by legislative, proceedings, and that such testimony as the Government might need to assert its interest must be procured through the *judicial*, and not through the legislative, department.

VIII.

The very act of *compelling a witness to testify* is in its essence a *judicial* act, and no one who is not vested with *judicial* powers can *compel* a witness to testify in any case.

Each House of Congress is vested by the Constitution with *judicial* powers in certain cases; and in those cases, which are enumerated in Kilbourn v. Thompson, either House may exercise the *judicial* power to compel witnesses to testify.

Each House is vested with the *judicial* power to determine the qualification of its own members, and therefore in all contested-election cases it may exercise the *judicial* power to compel witnesses to testify.

The same is true of the House of Representatives when formulating articles of impeachment, and of the Senate when it is sitting as a court of impeachment.

But the Constitution confers no *judicial* power upon either House to determine questions such as are being investigated by this committee.

The only power which either House possesses in regard to such questions is the *legislative* power to investigate and report upon such evidence as witnesses may voluntarily give, or as the committee may gather from public records or other open sources of information.

In the language of Justice Field in the matter of the Pacific Railway Commission—

"There is no doubt that Congress may authorize a commission to obtain information upon any subject which, in its judgment, it may be important to possess. It may inquire into the extent of the productions of the country of every kind, natural and artificial, and seek information as to the habits, business, and even amusements of the people. But in its inquiries it is controlled by the same guards against the invasion of private rights which limit the investigation of private parties into similar matters. In the pursuit of knowledge it can not compel the production of the private books and papers of the citizen for its inspection, except in the progress of *judicial* proceedings, or in suits instituted for that purpose, and in both cases only upon averments that its rights are in some way dependent for enforcement upon the evidence those books and papers contain."

This committee has the conceded power to *investigate* the "associations, trusts, and pools" referred to in the resolution of the House; and it may *investigate* all railroad companies who may have discriminated in favor of said monopolies. It may subpoena witnesses, call for books and papers, and receive all testimony that may be *voluntarily* given by the witnesses.

But when it attempts to *compel* a witness to testify against his will, it assumes a *judicial* power, which under the Constitution it cannot exercise.

IX.

In the Kilbourn case, the very point of the decision was that the investigation into "the matter and history of said real estate pool" was the assertion of a *judicial* power; that it related to a matter "wherein relief or redress could be had only by a *judicial* proceeding," and therefore "that the power attempted to be exercised was one confided by the Constitution to the *judicial*, and not to the legislative, department of the Government."

And so, in this case, I submit that if the Louisville and Nashville Railroad Company has discriminated against George Rice, or any one else, in favor of the associations, trusts, or pools referred to in the resolution, relief or redress can be had only by *judicial* proceedings before the courts, or the Interstate Commerce Commission, and therefore that this committee has no power to *compel* Messrs. Culp and Broadbush to testify in regard to it.

ED. BAXTER,

Of Counsel for J. M. Culp and A. F. Broadbush.

After the delivery of his argument the following proceedings took place:

Mr. BAXTER (after having read the following paragraph):

The Interstate Commerce Commission decided that the rates on oil in barrels should be the same as on oil in tanks; and the Louisville and Nashville Railroad Company, while respectfully differing from said Commission, adjusted its rates on oil so as to conform to said decision, and they have continued in conformity therewith ever since.

The committee will see from that that Mr. Rice has, by his application before the Interstate Commerce Commission, covered all of the ground since the interstate commerce law was passed, and by his bill filed before the United States circuit court at Louisville he undertook to cover all of the ground before the interstate commerce law was passed. So that the two proceedings which Rice has had in the courts of the country against the Louisville and Nashville Railroad may be said to cover all of the period of time which any inquiry by an investigating committee can cover. These two proceedings cover all of the time and all of the transactions that could possibly have arisen between said Rice and the railroad company.

Mr. BYNUM. I do not wish to interrupt Mr. Baxter, but it does seem to me that this is entirely irrelevant and not treating this committee with sufficient dignity. There is no evidence of those facts here at all. It is mere assumption.

Mr. BRECKINRIDGE. They certainly do relate to the time of inquiry.

Mr. BAXTER. It may show the motives of these witnesses to say that it is not from any capitious spirit or from any thought of disrespect that they decline to appear here as witnesses. One reason that we have is that, Mr. Rice being here and taking the interest he does in the question, it looks to us as if he was trying to get some discovery through this committee in relation to the Louisville and Nashville Railroad which he could not get from the judicial tribunals, and therefore we are asking this committee to shield us and not allow that to be done. I mean no disrespect whatever to this committee, but am simply trying to exculpate these witnesses. I withdraw anything, Mr. Bynum, that you or any member of the committee can construe as meaning anything of the sort.

The CHAIRMAN. I think I understand the feeling of the committee entirely with regard to the kind of objection that you suggest, sir, to the examination of these witnesses, and I am quite confident that the examination will develop that this committee will not in the future, as it has not in the past, inquire about anything of any witness except to procure the information which in the judgment of the committee is needed, in order that we may be able to report intelligently to the House the nature of the operations and transactions which have resulted in the creation of this enormous trust combination controlling a very large portion of a very important traffic in this country. Mr. Rice's presence here is hardly the subject of comment. You are here too, and he might as well object to your being here as for you to object to his being here. He is here as other gentlemen are here; but we are not aware of any effort on his part to exercise any influence with regard to this investigation or examination, any more than we are aware of any upon your part; and I do not think there is anything in that which requires comment. So far as I am concerned, I take no exception to your making the comment, but I indicate to you that it is based upon a mistake in facts.

Mr. BAXTER. I had not the slightest idea that any member of this committee was disposed to aid Mr. Rice in anything of the kind. I was simply asking the committee not to allow him to do it.

The CHAIRMAN. That we should not have done even without the request. But you will see this with regard to it, and I think that is a distinction which I do not wish the gentleman to overlook, because it is not the way in which lawyers are accustomed to look at matters. We are not here trying anybody. Your road is not upon trial, the Standard Oil Company is not upon trial, nobody is upon trial. We are simply inquiring with regard to facts, and if the jurisdiction of the United States courts is not broad enough to reach any mischief that ought to be remedied, if the interstate commerce bill is not broad enough to correct any evil that anybody may be suffering from, if additional and new legislation is required, the duty with which this committee is charged is to suggest that to the House; and to do so, we must look into and inquire as to the facts and occurrences which have happened before this, to the end that when we go to the House with a recommendation as to additional legislation, we may have with us the information which induced us to believe that legislation necessary. And instead of being here to try any question, we are here simply to get at the facts by which the legislative branch of this Government may have in authentic form the information necessary to guide it in future legislation. Therein is the difference, as I apprehend it, between the situation here and the situation in the Kilbourn case, to which your brief makes reference.

Mr. BYNUM. That is to say, he was proceeding upon the assumption that this committee was simply the tool of private parties in seeking information from private individuals. There is no evidence of that fact, and no truth in the assumption.

Mr. BAXTER. I said nothing with the intention of reflecting in any way upon the committee, nor did I say that the committee was intending to do anything of the kind. I simply wanted to point out to the committee that in the pursuit of an investigation, which I recognize their full right to make, they might unknowingly, if I had not stated the facts of the litigation between Mr. Rice and the railway company, the committee might not know the effect which their investigation might produce upon our rights.

The CHAIRMAN. Personally, I feel that a statement of that fact, isolated and alone, is of value to the committee, because I say to you very frankly that the committee does not intend to take any step here which shall be solely for the benefit of any private individual. Upon the other hand, we can not excuse witnesses from testifying to facts which are proper for us to know because that testimony may be collaterally, and in some other place, of value to some private person. We can not either widen the investigation or restrict it with reference solely to private interests.

Mr. SMITH. Mr. Baxter states here in the eighth division of his argument:

This committee has the conceded power to investigate the associations, trusts, and pools referred to in the resolution of the House, and it may investigate all railroad companies who have discriminated in favor of said monopolies. It may subpoena witnesses, call for books and papers, and receive all testimony that may be voluntarily given by the witnesses, but when it attempts to compel a witness to testify against his will it assumes a judicial power which, under the Constitution, it can not exercise.

Now, I do not believe that this committee has tried to compel any one to testify against his will.

The CHAIRMAN. But Mr. Baxter has not yet reached that point in his argument.

Mr. CROUSE. I wish to inquire if, in view of the objection made by Mr. Bynum, Mr. Baxter still desires to pursue the course he has marked out here, and ask these witnesses to be excused from testifying, which I hope he will not do after the statement made by the chairman; but if he still intends to do that, would not the objection made by Mr. Bynum be wholly obviated if he just skips all of his brief referring to that matter and goes to that portion of it which objects to the jurisdiction of the committee in the case.

Mr. BRECKINRIDGE. I will remark in that connection that Mr. Baxter, looking out for private interests that may be involved, takes a line of argument that we ought not to review any occurrences that have been the subject of a decree. Other gentlemen, with the same end in view, held that we ought not to make an examination into occurrences that may be the subject of a decree. If Congress is to be denied inquiry both into matters adjudicated and into matters not adjudicated, there would be no inquiry at all. That would bring the committee at once to a standstill. The fact is, we are not seeking to reopen questions adjudicated by the courts. We have nothing to do with adjudications that have occurred. We are not seeking to reopen points determined or lay the basis for future adjudications. We have nothing to do with that. But we can not excuse a citizen who has been engaged in schemes of this character simply because there has been a trial. We have nothing to do with that trial. This is not a retrial. It is a general inquiry upon questions of public policy, and if it is a matter that has not been adjudicated, if it is a matter of living dispute, and the inquiry trenches upon private interests in nowise relative to public property, the committee has, I believe, uniformly, upon a showing of that character, waived all inquiry; but also if it relates to matters adjudicated but is illustrative of this general policy and objection is made to answering a question, either through suggestion of counsel or at the instigation of the witness himself, upon the ground that it unnecessarily involves private interests, the committee has uniformly waived that inquiry. The fundamental mistake Mr. Baxter is making is in supposing we are rehearing a case as a court would rehear, or reopening a decree

of a court. We have nothing to do with that, and I think he need have no fears of any such thing if he carefully follows the course of this inquiry.

Mr. BAXTER. My position, with the permission of the committee, is this: That if any committee of either house of Congress, or the houses themselves, possess judicial power to make an investigation of this kind they can not only send for persons and papers, but can compel, like any other judicial tribunal, witnesses to testify. But if a committee is only exercising legislative powers, while it can send for persons and papers it can not compel witnesses to testify, and in that I rely upon the judgment of Mr. Justice Field in the matter of the Pacific Railway Commission, in which he uses this language:

There is no doubt that Congress may authorize a commission to obtain information upon any subject which, in its judgment, it may be important to possess; it may inquire into the extent of the productions of the country of every kind, natural and artificial, and seek information as to the habits, business, and even amusements of the people; but in its inquiries it is controlled by the same guards against the invasion of private rights which limit the investigation of private parties into similar matters. In the pursuit of knowledge it can not compel the production of private books and papers of the citizen for its inspection, except in the progress of judicial proceedings or in suits instituted for that purpose, and, in both cases, only upon averments that its rights are in some way dependent for enforcement upon the evidence those books and papers contain.

The CHAIRMAN. Will you permit me to interrupt you for a moment? I am familiar with that decision somewhat, and there is a question of construction of that language upon which I would like to have your opinion. The first sentence is:

There is no doubt that Congress may authorize a commission to obtain information upon any subject which, in its judgment, it may be important to possess it may inquire.

Does that last "it" mean Congress or the Commission?

Mr. BAXTER. Either Congress or the Commission.

The CHAIRMAN. Which does he mean?

Mr. BAXTER. I suppose he means Congress.

The CHAIRMAN. I think he means the Commission.

Mr. BAXTER. Well, I suppose the Commission has the same power as Congress.

The CHAIRMAN. I think not.

Mr. BAXTER. I presume if the Senate, for instance, possesses judicial power and wishes to make an investigation, it may transmit that power to a commission.

The CHAIRMAN. Will you please refresh my recollection as to when that Pacific Railway Commission was created exactly?

Mr. BAXTER. It was created under the act of March 3, 1887. Whenever the Senate acts as a court of impeachment, it possesses judicial power and consequently could send for persons and papers, and could compel witnesses to testify, and I assume, for the purposes of this question, that any commission or committee which the Senate might appoint in regard to that to get up testimony on the subject would also have such judicial power. At least I do not feel that it is necessary for my purposes to contend that this committee has not the same power as the House. My argument goes to this extent, that the House of Representatives itself has not the power to compel witnesses to testify.

The CHAIRMAN. You see the importance of the inquiry I make as to whether that word "it" refers to the Commission or to Congress. I do not know which the judge meant, with certainty, yet it seems to me he meant the Commission. If so, it brings us back to the other question

whether the houses of Congress, in their legislative capacity, have the power to delegate any portion of their authority to any commission. I do not think they have. I think that decision may stand without affecting or disturbing the question as to whether the houses of Congress have power to investigate matters and compel witnesses to testify.

Mr. BAXTER. If that is so, Mr. Chairman, it would seem to me that whatever power the houses would have, no committee would have the same power.

The CHAIRMAN. That is the question. The House may do by its members what it may do itself. The investigation in the Pacific Railroad case was not by any members of the House. It was not even during the existence of the House which called it into being. And just as the Forty-ninth Congress could not itself have conducted that investigation after the 4th of March, 1887, so any authority it created could exercise no legislative function after that time. This committee is the House for the purposes of this investigation, and has the powers of the House.

Mr. BAXTER. That is where all my argument is made. I assume myself as having been summoned by the House, and I deny the power of the House, as well as the power of the committee, to compel our witnesses to answer.

The CHAIRMAN. But do not let us misapprehend each other. What I inquired was whether you considered that word "it" in the opinion of Judge Field referred to the powers of the House of Representatives or to the powers of the Commission, which the House had created out of individuals who were not members of it, and which was exercising the function after the House which had ordered the investigation had itself ceased to exist? This is important in determining the weight to be given to that authority, as you will see.

Mr. BAXTER. I have not read the opinion with reference to the precise point now suggested. The impression on my mind made by that opinion was that neither house of Congress, nor both combined, can compel a witness to testify except in a judicial proceeding, or where it is exercising judicial powers. Leaving out the cases of impeachment by the Senate, and the cases where the House of Representatives is preparing articles of impeachment, and the cases where either house is judging the qualification of its own members—those cases in which the Constitution gives those houses judicial power—neither of those houses possesses judicial power, either separately or combined; nor can they, by any act of legislation, delegate either to a committee or commission the exercise of this general power under the Constitution of the United States; that the Constitution expressly provides that the legislative department, the whole department, Senate and House, shall not exercise any judicial power except in those instances mentioned by Mr. Justice Miller in the *Kilbourne* case, and I assume that as the very act of calling a witness and compelling him to testify is in its essence a judicial act that no tribunal or committee acting under the direction of either house of Congress can compel a citizen to testify. If he says, I decline, that is the end of it. If he sees proper to come forward and voluntarily give his testimony, very well, but unless the committee is acting under some clause of the Constitution that gives that committee or the house which appointed it, or both houses, some power over the subject-matter, then I submit that neither can exercise it.

Mr. SMITH. Then, I understand your idea is that we can not even compel witnesses to appear.

Mr. BAXTER. Yes; you can do that. Under section — of the Revised Statutes you can bring a witness here and pay his expenses.

Mr. SMITH. But after he gets here he can keep his mouth shut ?

Mr. BAXTER. Yes, sir; if you are merely in the pursuit of information, as Mr. Justice Field says I can write to any gentleman in New Orleans that I am investigating a certain matter, and I may ask him to come here, and may pay his expenses, but when he comes he can tell me if he wants to, or he need not if he does want to. Under a section of the Revised Statutes which imposes a fine of \$1,000 for the failure of a witness to come when summoned by the House, you can compel his attendance. But when he does come, you can not compel him to testify, if you are merely in pursuit of information. Your object here is to get information in regard to the framing of a bill to regulate these trusts, associations, and pools. That is a matter clearly within the power of Congress, and any citizen of the United States who possesses any information upon that subject that he thinks would tend to enlighten you and enable you to discharge your duties intelligently is bound, as a public-spirited citizen, to come here and give that information to you, and no man who has not some really good motive behind to justify him in his conscience would be at all justified in refusing to do so. But when he says, I do decline for private reasons, which I am ready to explain to the committee if they desire—or if they say, no, sir, we do not want to hear your reasons, then he can say I have reasons which in my own mind are satisfactory for declining to testify. Then, the committee says we will make you testify—but where is your power? Is the power to order a man to jail legislative or judicial? Has any legislative department of this Government the power to order a citizen to jail? Has it power to issue a warrant? Has it power to order the sergeant-at-arms to imprison the citizen? Are not all these things judicial powers; and if the committee can find anywhere that the Constitution has authorized it to sit judicially upon any of the questions it is investigating, then I concede that the judicial power of compelling testimony results. But if the committee is simply sitting to gather information to enable it to act intelligently, then, in the language of Mr. Justice Field, “in its inquiries it is controlled by the same guards against the invasion of private rights which limit the investigation of private parties into similar matters.”

Mr. GOWEN. You claim this exemption as an exemption to the citizen under some constitutional prohibition, do you not?

Mr. BAXTER. Yes, sir.

Mr. GOWEN. Do you claim that a corporation as a corporation is entitled to the benefit of any of the protections which are thrown around a citizen in the bill of rights?

Mr. BAXTER. I say it has been so held by Judge Sawyer. In the case of the Central Pacific Railway Company he held that that company was entitled to precisely the same exemption as Leland Stanford, its president. But I did not put it upon the private privilege of the citizen. Where I make my fight is that Congress has no judicial power against a corporation, or a citizen, or anybody, that the bare act of ordering a citizen to jail is a judicial power, and whether he is an officer of a corporation and whether the object of the investigation is to get at the acts of the corporation or to examine his own private books cuts no figure at all. It does not make a particle of difference in my theory. Mr. Stanford said to the Pacific Railway Commission, I decline to answer; and the question came up then whether he could be sent to jail for refusing to answer, and the circuit court of the United States stated he could not, and that whether he was the president of a corporation or a private individual, and whether he was asked to disclose the affairs

of the company or to produce his own check book, it was beyond the power of Congress to force him to give testimony or to delegate the power to a commission to do so.

Mr. SMITH. Did the judges not even hold that Congress could not go into court and get that evidence?

Mr. BAXTER. On the contrary they said:

It can not compel the production of the private books and papers of the citizen for its inspection, except in the progress of judicial proceedings, or in suits instituted for that purpose, and in both cases only upon averments that its rights are in some way dependent for enforcement upon the evidence those books and papers contain.

Now, if the United States has any interest in the question as to whether the Louisville and Nashville Railroad has heretofore discriminated in its oil rates in favor of these trusts, associations, or pools, if it can show that it has any interest, it may file a bill against the Louisville and Nashville Railroad in any court, call for a discovery and production of its books and papers, and it can get the information whether the officers of the company want to give it or not. But Congress can not delegate to a committee of either house the same power that would be possessed by a United States circuit court upon the filing of that bill of discovery. If Congress could do that it could proceed to exercise all powers here which a court could.

Mr. BRECKINRIDGE. Let me interrupt you. Do Mr. Culp and Mr. Broaddus object to any particular question, or do they object to testifying altogether?

Mr. BAXTER. I made my objection that broad so as to raise the whole question. As I said before, I hope there is no citizen of the United States who would decline to give this committee any information that he thought would enable it to pursue its duties intelligently except in so far as such information would injuriously affect the interests of the company which he represented.

Mr. BRECKINRIDGE. Is the committee trying to do that?

Mr. BAXTER. I protest again and again that I am not intending to intimate anything of the kind. I merely intend to guard against the asking of questions the answers to which may be used by other parties for the purpose of enabling them to lay the foundation for litigation against the Louisville and Nashville Railroad.

Mr. BRECKINRIDGE. Is not that crossing the bridge before you come to it? Of course, this is a very important question, but like many other questions it may not be necessary to raise it.

Mr. BAXTER. In section 3 you will see that I was notified by counsel of the committee that the examination of the witnesses "will be directed to railway discrimination in oil rates, enabling monopolies to control the oil traffic;" and that said "witnesses will be asked to testify as to oil rates and drawbacks, and produce papers and books relating to the same; also as to rates and drawbacks on freight carried as back loading in tank cars." That is precisely the question that was investigated before the Interstate Commerce Commission. It was the supposed discrimination of the Louisville and Nashville against private shippers that was the subject of those investigations.

Mr. BRECKINRIDGE. But right there; suppose the line of inquiry of the committee does not go beyond the line of testimony given before the Interstate Commerce Commission. I presume you would have no objection to that line of inquiry?

Mr. BAXTER. Yes, sir; my objection is that it is repeating here what I have already answered there, and I do not want to be twice examined about the same matter.

Mr. BRECKINRIDGE. It is merely a matter of convenience then?

Mr. BAXTER. Suppose the committee make an exculpatory report so far as the Louisville and Nashville is concerned, and say that not only did that road not discriminate against shippers, but that it treated all with fairness and justice; I could not avail myself of that report in any court.

Mr. BRECKINRIDGE. We are not trying the Louisville and Nashville, and we are not a court.

Mr. BAXTER. I understand that.

Mr. BRECKINRIDGE. And we might elicit precisely the same evidence in the main that was elicited before some court, but in a connection that would be available for our legislative purposes; and now, if you deny us that evidence simply because it would be furnishing precisely the same data, you would be falling back upon a purely technical objection. You may say, Go search the record. But from a legislative stand-point we are making an entirely independent inquiry, and so long as that inquiry does not go beyond what you are willing to tell and what you have told and are willing should be known, the objection is entirely unnecessary unless you desire to put the committee to additional labor.

The CHAIRMAN. I would suggest that the record before the Interstate Commerce Commission is no part of the record of this committee, and there is no way of putting it in that record except by calling witnesses and proving its contents.

Mr. BAXTER. Will the committee excuse me for a few moments? I am called to the Supreme Court. I will file my brief with the committee.

The CHAIRMAN. What I desire to say on this question I wish to say in your presence, Mr. Baxter, and I shall be glad to have you remain for a few moments. Charged as I have been under resolutions of this committee from time to time with the direct management of these investigations, I have tried to familiarize myself to some extent with the law applicable to investigations of this kind. So far as I know, there is not any decision of the Supreme Court, or of any member of it, which precisely determines the question as to the power of Congress to compel answers of witnesses in investigations ordered with regard to matters over which it has legislative power. The Supreme Court, in the Kilbourn case, in the opinion of Mr. Justice Miller (103 U. S., p. 189), says:

Nor, taking what has fallen from the English judges, and especially the later cases on which we have just commented, is much aid given to the doctrine that this power exists as one necessary to enable either house of Congress to exercise successfully their function of legislation.

This latter proposition is one which we do not propose to decide in the present case, because we are able to decide it without passing upon the existence or non-existence of such a power in aid of the legislative function.

Thus it will be apparent that the Supreme Court of the United States, in determining the Kilbourn-Thompson case, specifically and in terms announced that the question of the right of the legislative branch of this Government to make inquiry and to compel answers in regard to a matter which was within the legislative function was a subject which the court would not pass upon and would not decide. And I am not familiar with, and I am not referred to, any case in which the Supreme Court ever has passed upon that question.

In the decision of Mr. Justice Field in the Pacific Railway Commission case, I apprehend, after careful reading of it, that Mr. Justice Field there determined that Congress had no power to create a commission

to make inquiry and investigate which would have the power to punish for contempt, and that he went no further.

Now, that is as far as I know the judicial branch of this Government has gone in settling the constitutional question which Mr. Baxter raises. The legislative branch of the Government, however, has gone a good deal further. It has repeatedly asserted its power to do this, notably in the Credit Mobilier investigations, and it has put upon the statute books a statute which can be predicated only upon the existence of that power, and which goes further than Mr. Baxter seems to understand it does, at least as I apprehend it. The statute is—

That every person who, having been summoned as a witness by the authority of either house of Congress to give testimony or to produce papers upon any matter under inquiry before either house or any committee of either house of Congress, willfully makes default; or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor; and whenever a witness summoned as mentioned in section 102 fails to testify, and the facts are reported to either house, the President of the Senate or the Speaker of the House, as the case may be, shall certify the fact under the seal of the Senate or House to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the court for its action.

So that not only by its usages and the repeated exercise of its power from time to time since the formation of the government has the legislative branch asserted this authority, but it has gone further and enacted that the refusal to testify and answer questions pertinent to a matter under inquiry by either house shall be a misdemeanor, which could only be predicated, of course, upon the proposition that the house had the right to make the inquiry and the right to put the question.

Now, I do not see that it is competent for a committee, whatever may be the individual opinion of the members of it, having been charged with the duty of conducting such an investigation, to assume the responsibility of excusing any witness generally or refraining from conducting an investigation under the rules of the House or for the information of the House in the face of the fact that the House has constantly and uniformly exercised the power, and Congress has enacted a statute which makes the refusal of the witness to submit to it a misdemeanor. It seems to me we are powerless to adopt any other rule than the one which the usage of the two houses, and the statute make in the interpretation put upon their own constitutional power by the Senate and House concurrently. Of course that statute has also received the Executive sanction, so that by two branches of the Government at least we have explicit sanction of the theory of the existence of the power, and as to the other branch simply a refusal to pass upon the question of its existence. That is the exact status of the question as I comprehend it.

Mr. BRECKINRIDGE. I would like to ask Mr. Baxter a question in that connection. This relates solely to the power of either house of Congress with reference to their legislative function. This is a necessary incident to the exercise of their legislative function under the ample power given by the Constitution to any branch of the Government to exercise whatever power is clearly indispensable to the proper discharge of its functions. And in no case has Congress exercised, unless perhaps in the Kilbourn case, a judicial function, which is of course not involved here at all.

The CHAIRMAN. There is no case in which the Supreme Court has determined that investigation by either house of Congress was judicial and not legislative.

Mr. BAXTER. I understand the Kilbourn case just as you do. I understand Judge Miller to say that he is not going to undertake in that

case to say that Congress in the exercise of its legislative power can not compel witnesses to testify, but he says that wherever the matter to be investigated is of a judicial character that then Congress can not compel witnesses to testify; and he proceeds to say that the questions that were under inquiry by Congress in the Kilbourn case were judicial in their nature, and that therefore Kilbourn could not be compelled to testify. Now, the inquiry in that case and the inquiry in this case can not be distinguished, at least as I understand the inquiries counsel is going to make.

He wants to prove that certain discriminations were practiced by the Louisville and Nashville Railroad in favor of certain associations, trusts, and pools in the oil business. Now, I say that is precisely as judicial a question as was put to Kilbourn, to wit, what has become of certain funds in connection with the real-estate pool in Washington? That is what the Kilbourn case went off on.

The CHAIRMAN. I call your attention again to the difference between the investigation now pending and the Kilbourn case. I read from the opinion of Justice Miller:

The preamble [to the resolution] then refers to "the real-estate pool," in which it is said Jay Cooke & Co. had a large interest, as something well known and understood, and which had been the subject of a partial investigation by the previous Congress, and alleges that the trustee in bankruptcy of Jay Cooke & Co. had made a settlement of the interest of Jay Cooke & Co. with the associates of the firm of Jay Cooke & Co., to the disadvantage and loss of their numerous creditors, including the Government of the United States, by reason of which the courts are powerless to afford adequate redress to said creditors.

Several very pertinent inquiries suggest themselves as arising out of this short preamble.

How could the House of Representatives know, until it had been fairly tried, that the courts were powerless to redress the creditors of Jay Cooke & Co.? The matter was still pending in a court, and what right had the Congress of the United States to interfere with a suit pending in a court of competent jurisdiction?

Again, what inadequacy of power existed in the court, or, as the preamble assumes, in all courts, to give redress which could lawfully be supplied by an investigation by a committee of one house of Congress, or by any act or resolution of Congress on the subject? The case being one of a judicial nature, for which the power of the courts usually afford the only remedy, it may well be supposed that those powers were more appropriate and more efficient in aid of such relief than the powers which belong to a body whose function is exclusively legislative. If the settlement to which the preamble refers as the principal reason why the courts are rendered powerless was obtained by fraud, or was without authority, or for any conceivable reason could be set aside or avoided, it should be done by some appropriate proceeding in the court which had the whole matter before it, and which had all the power in that case proper to be intrusted to any body, and not by Congress or by any power to be conferred on a committee of one of the two houses.

The resolution adopted as a sequence of this preamble contains no hint of any intention of final action by Congress on the subject. In all the argument of the case no suggestion has been made of what the House of Representatives or the Congress could have done in the way of remedying the wrong or securing the creditors of Jay Cooke & Co., or even the United States. Was it to be simply a fruitless investigation into the personal affairs of individuals? If so, the House of Representatives had no power or authority in the matter more than any other equal number of gentlemen interested for the government of their country. By "fruitless" we mean that it could result in no valid legislation on the subject to which the inquiry referred. (103 U. S., 194.)

Now, that is exactly what I understand it determined. The court determined that in that particular matter there was nothing which came within the legislative functions of the houses of Congress, and that therefore the whole investigation was unauthorized, and was a direct interference with the exercise of the ordinary powers of the judicial branch of the Government, and that therefore Congress was in error in undertaking the investigation. Now, in this case, we come here with a resolution of inquiry into certain alleged combinations which are affecting the revenue of the Government—which are affecting the interests

of its private citizens—as alleged, and we are required to find out, first, what these combinations are, how they are operated, by what means they have grown up to their present size and importance and have acquired the influence they have upon private interests, and to report back to the House that testimony, with our recommendation as to what legislation, if any, is needed to correct any wrongs, if any are found to exist. It is clearly within the legislative functions; just as clearly as the other was without, as I apprehend it.

Mr. BAXTER. You will find this language in that opinion you were reading from a while ago:

If the investigation which the committee was directed to make was judicial in its character and could only be properly and successfully made by a court of justice, and if it related to a matter wherein relief or redress could be had only by a judicial proceeding, we do not, after what has been said, deem it necessary to discuss the proposition that the power attempted to be exercised was one confided by the Constitution to the judicial and not to the legislative department of the Government. We think it equally clear that the power asserted is judicial and not legislative.

Now, the power the committee asserted in that case was a power to follow a trust fund into the real-estate pool. Of course the committee disclaimed in that case the idea of being a court of chancery or having the power to make decrees in the case such as could be made by a court of equity. But the committee did try to get, all the same, testimony that a court of equity would have gotten to enable it to found a decree. And the point in the Kilbourn case is this, that whenever a legislative committee finds itself gathering evidence on a point that would fit a judicial case, then it knows it is beyond its prerogatives. In this case the counsel has notified me he is to call for answers in reference to alleged discriminations which have been made by the Louisville and Nashville Railroad in favor of the Standard Oil Company. Now, every word that a witness deposes upon that point would be entirely competent in an action for damages or relief, and as soon as the committee finds the testimony is taking that turn that it could be used for that kind of purpose, then it is going beyond its power and the power of Congress, no matter what the object of Congress in appointing the committee may have been nor the expectation as to what kind of report the committee should make. I am perfectly aware that the committee is not going to try to render judgment against the Louisville and Nashville or any other railroad. I know that this committee intends to report what it finds, and to suggest a remedy. But the question is, the nature of your investigation; and whenever you find that you are examining a witness upon the same points as would be proper to be brought out in a court of justice, upon an issue either of law or fact, then this committee is acting judicially, and if a witness says, "I decline to answer," I do not think Congress can compel him to answer. That is what the Kilbourn case and the Central Pacific case hinged on.

The CHAIRMAN. That is not the impression I had, or at any rate it is different from the view I entertain, whether I am right or you. The determination as to whether an inquiry is proper or not is not dependent upon the character of the question, or the use that might be made of the proof, or the fact that it might be material in a judicial proceeding. It is dependent solely upon the question whether it is pertinent for the purpose of providing Congress with the necessary information to legislate intelligently. Now, in the Kilbourn case they did not propose to legislate. There was nothing for them to legislate about, and there was no suggestion in the resolution that they would; and therefore it was an intrusion upon the judicial branch of the Government, which is charged with the duty of settling disputes under exist-

ing laws. In this case we are seeking information, not to settle disputes, but to enable us intelligently to correct existing laws. That is the distinction as it seems to me.

Mr. BAXTER. I understood that the object of the Kilbourn investigation was to get up information to enable Congress to——

The CHAIRMAN. Not at all. This is the language of Mr. Justice Miller:

If so, the House of Representatives had no power or authority in the matter, more than any other equal number of gentlemen interested for the government of their country. By "fruitless" we mean that it could result in no valid legislation on the subject to which the inquiry referred.

Now, that is the test. Is this information necessary in order that valid legislation may be enacted? If so, the inquiry is pertinent and proper. If not, it is impertinent and improper.

Mr. BAXTER. Justice Miller says the Kilbourn committee seems to have been appointed without any idea of reporting.

The CHAIRMAN. Of reporting legislation?

Mr. BAXTER. Any valid legislation; and the reason given for that was because such legislation would be *ex post facto*. And in this case, if the committee were to report that the Louisville and Nashville had been guilty of discrimination, there is no valid legislation Congress could pass that would punish them.

The CHAIRMAN. If we should report that the Louisville and Nashville Railroad Company had pursued a certain policy, which had resulted in certain things happening to the injury of private citizens, and that therefore legislation should be adopted which would prevent in the future that policy, the testimony would be pertinent and the legislation would be proper and valid.

Mr. BAXTER. But it would not correct the evils that are supposed to exist in this case, any more than legislation based upon the report in the Kilbourn case would have remedied the evils which were supposed to exist there. And therefore, in that respect, these cases are alike. No legislation that this committee can suggest in its report will reach the evils in the past.

Mr. BRECKINRIDGE. But we can provide a remedy for them in the future.

Mr. BAXTER. Yes, sir.

Mr. BRECKINRIDGE. That is the whole line of our inquiry.

The CHAIRMAN. And therefore the committee must know what the evils were that it may correct them.

Mr. BAXTER. As I understand the case, wherever you want information to guide you in legislation, you must get it voluntarily or must go into court if you wish to compel witnesses to testify.

The CHAIRMAN. That is the question upon which, as I understand, you produced no authority from the judicial department determining it, the Supreme Court having disclaimed any such determination in the Kilbourn case, and the usage of the legislative and executive branches are against you, and the statute passed by the legislative branch and approved by the Executive is also against you.

Mr. BRECKINRIDGE. Allow me to interrupt for one moment. Mr. Baxter, that is a question you have not argued. It is the first time that question has been raised.

Mr. BAXTER. Which question?

Mr. BRECKINRIDGE. That we have no right to interrogate witnesses if it was in the line of future legislative policy.

Mr. BAXTER. You will find that discussed in my brief.

Mr. BRECKINRIDGE. I have not read your brief only so far as your remarks have gone.

Mr. GOWEN. I do not wish to take up time unnecessarily, but I wish to make this statement: I claim and urge before this committee that Congress or the legislative power has abundant authority to legislate upon the past, and that there is no known prohibition in the Constitution preventing them doing that. I claim, in other words, that if Congress ascertains as the result of an examination into the past that any given sum of money has been erroneously or improperly extracted from the treasury of any railroad company it can legislate in order to give the courts jurisdiction of that subject, and grant them the power to enforce a remedy that will require the restoration of that money.

Mr. BAXTER. That would give a new remedy. My proposition was that Congress could not denounce as a crime or a tort what was not such at the time it was done. I must beg the committee to excuse me for a few moments, as I have been summoned to the Supreme Court. I expect to be detained but a short time.

The **CHAIRMAN.** Very well, Mr. Baxter. We will not proceed with the examination of your witnesses until your return.

EDGAR HILL—Recalled.

By **Mr. GOWEN:**

Q. When you were on the stand before, you left with the understanding that you were to furnish certain statements. Since then we have been informed by your counsel that you probably might testify from recollection as to certain facts, in which case we would relieve you from furnishing those statements. Now, I want a statement of the various rates allowed by you, either as rebates, allowances, or net rates, to the Standard Oil Company or any of its affiliated interests for the transportation of oil over your road?—**A.** I want to state this morning that prior to the passage of the interstate-commerce act we were transporting oil and paying rebates on oil to quite a number of points from Cleveland.

Q. To whom?—**A.** To different parties.

Q. To the Standard Oil Company?—**A.** Yes, sir; and to other parties. I can not, under the advice of counsel, give you the amount of the rebates paid.

Q. That is just what we want to know, in order to ascertain whether, in the payment of those rebates, there was a discrimination. If you say to me that you will refuse to give us that, I will not inquire further about it.—**A.** I simply request to be excused from giving that information. We paid these rebates.

Q. If you put it in the form of a request, the request can not be granted; but if you decline, then we will have to resort to any method there may be to compel the production.—**A.** If the committee are bound to have this information, and will not excuse us, I suppose we will have to give it; but I would like to be excused from giving it.

By **Mr. SMITH:**

Q. Was there any difference in the rebates between the parties?—**A.** I decline to answer that question.

By **Mr. BRECKINRIDGE:**

Q. What is the date of these transactions?—**A.** Prior to the passage of the interstate commerce law.

The CHAIRMAN (Mr. BYNUM). Then I understand you to decline to state whether the rates were the same or whether there was a difference; whether some persons were getting greater rebates than others! I will not ask you what the rebates were, but whether they were the same?—A. Under similar circumstances and conditions they were the same, we claim.

Q. And under different conditions they differed?—A. Yes, sir; according to the volume of the business.

By Mr. GOWEN:

Q. The volume of the business was one of the circumstances?—A. Yes, sir.

Q. And the character of the car in which it was moved was another?—A. Yes, sir.

Q. In other words, you justify a greater rebate as due to a larger amount of traffic?—A. Yes, sir.

Q. And the ability to give you a larger amount of traffic was, doubtless, a reason urged for getting a greater rebate?—A. That is correct.

Q. Since the passage of the interstate commerce act have you made any difference in the relative difference that existed between your rate on car-load lots and your rates on less than car-load lots?—A. I do not think we have.

Q. Taking the question of barreled oil, can you remember what your rate—how your rate on less than car-loads compared with the car-load rate prior to the passage of the interstate commerce law?—A. As I stated yesterday, I did not make any figures on less than car-loads, and I do not know exactly how they compare. I have not made any comparison at all.

Q. Can you tell what class car-load rates were on oil before the interstate commerce bill passed?—A. No; we always had a special classification, and have yet.

Q. What classification was oil in less than car-load lots?—A. First class.

Q. First class?—A. I think so.

Q. Before the passage of the interstate commerce law?—A. I think so. I know we changed the classification on the 5th of April.

Q. You mean classifications as well as rates?—A. If the classification was changed of course the rate was changed.

Q. That is what I want to know. I am not getting at the question of mere rebates, or difference to one shipper from another, but I want to know if any change was made in the rates.—A. I have not that with me, but will give you the relative rates in car-load lots, and less than car-load lots, as they are now.

Q. I want the less than car-load in comparison.—A. I can give you that.

Q. If you will put them both in one statement I shall be obliged to you. State what the classification and rate per car-load and less than car-load, respectively, were before the passage of the interstate commerce act, and what the classification and rates, respectively, were on car-loads and less than car-loads after the passage of the interstate commerce act.—A. I have already stated that there was no change in car-loads, but there might have been on less than car-loads.

The CHAIRMAN (Mr. BYNUM). You will have to remain until after the committee decides the question of compelling your answer, which we will do before we adjourn.

By Mr. GOWEN :

Q. Just look at this voucher on the Queen and Crescent Line of March 2, 1885, to Chess Carley & Co., and the voucher on the Queen and Crescent Line to Chess Carley & Co. of August 21, 1885, and state whether in both of those cases there was not a rebate allowed Chess Carley & Co. on barreled oil.—A. This seems to be an overcharge claim on a shipment from Cleveland to Chattanooga.

Q. It is the first and last clause.—A. Here is a shipment of July 2 from Cleveland to Chattanooga, 50 barrels of oil that are billed at \$105, should have been \$64.05. That is overcharge.

Q. That overcharge was refunded, was it not?—A. Yes, sir.

Q. And turning to the first one, it is the same thing, is it not?—A. Yes, sir; 60 barrels of oil from Cleveland to Chattanooga, billed at \$126, should have been according to this \$76.86.

Q. Then in that case the overcharge was refunded, was it not?—A. Yes, sir.

Q. And both of those were allowances of overcharges, as you call them, on barreled oil, were they not?—A. Yes, sir.

TESTIMONY OF T. S. DAVANT.

T. S. DAVANT, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside?—A. Knoxville, Tenn.

Q. What is your position?—A. General freight agent of the East Tennessee, Virginia and Georgia Railroad Company.

Q. You have charge of rates, have you not?—A. Yes, sir.

Q. You have been asked to bring a statement of the rates or allowances paid on oil shipped over your road. Have you that statement?—A. No, sir.

Q. Why not?—A. I did not have any to make up.

Q. That was a very good reason. You made no allowances?—A. No, sir.

Q. You carried for everybody at the same rates?—A. Yes, sir.

Q. Did you carry oil in tanks at the same rate as in barrels?—A. Locally, yes, sir.

Q. On through business?—A. On through business there was a difference in the rates.

Q. What was the difference, can you tell us?—A. I can not from recollection; no, sir. I can not remember the figures.

Q. Why did not you bring them? You were asked to bring a statement of shipments showing rate at which oil was carried for the last two years and a half.—A. I do not remember whether I was or not. I have my subpoena here. (After taking subpoena out of his pocket and examining it, the witness said:) My understanding of this document was that it was sought to develop the fact whether or not our company had paid rebates.

Q. It also asked for rebates on each shipment of oil—you see in that?—A. I have not got the rates on oil with me, sir.

Q. Can you give us from the best of your recollections any information as to the relative difference on through rates between oil carried in tanks and oil carried in barrels?—A. I can not right at this moment, but can in a very little time.

Q. While you are here you mean?—A. Yes, sir.

Q. Have you papers from which you can get them?—A. Yes, sir.

Q. Who has those papers here?—A. I think I can get them from the Richmond and Danville office.

Q. Do you know George Rice?—A. Yes, sir; I know of him.

Q. Mr. J. J. Griffin was your assistant, was he not?—A. Yes, sir.

Q. Have you any recollection of Mr. Griffin or yourself naming a rate or giving a rate to Atlanta to Mr. Rice of \$35 a car and permitting him to ship under it?—A. I have some recollection as to that.

Q. Well, Mr. Rice at that time was shipping oil on the Western and Atlantic, was he not?—A. Yes, sir.

Q. And did not you profess a desire to have his business and name this rate in order to get a shipment over your line?—A. I do not know. My recollection of that transaction is this—and several letters passed between myself and Mr. Rice on this subject—and as I remember the transaction was about this: rates between Chattanooga and Atlanta were matters of agreement between the Western and Atlantic and our road. We found that the Western and Atlantic had a special rate—was charging a special rate on oil of which we had no knowledge, and we developed the fact by hauling a car-load of oil for Mr. Rice.

Q. You made use of that to ascertain what their rates were?—A. Probably so.

Q. And after ascertaining that you withdrew that rate from him?—A. Rates were advanced.

Q. But that made a difference with the other road which he may have been charged with betraying, did it not?—A. I do not know.

Q. Do you think that when he accepted that rate of \$35 he had any reason to anticipate that that would be used adversely to him?—A. I do not know. That transaction was conducted by Mr. Griffin, and I am not prepared to admit that it was Mr. Griffin's intention to take any undue advantage of Mr. Rice. He did not get the information from Mr. Rice in the first place.

Q. State whether or not at the time of those shipments the rate from Chattanooga to Atlanta was not \$80 per car on barreled oil as against \$22.50 to the Standard Oil Company on tank-cars?—A. That is not my recollection.

Q. Or on barreled oil?—A. I do not think that at that time we had any rate at all from Chattanooga to Atlanta on tank oil.

Q. You think not?—A. I think not.

Q. Do you not know that this rate on barreled oil from Chattanooga to Atlanta was then raised to a hundred dollars?—A. It was raised to the tariff at which it was before the reduction.

Q. Was not that \$100 dollars?—A. I do not know whether it was or not.

Q. Do you not know that when the rate on barreled oil was \$100 the rate on tank oil was \$22.50?—A. No, sir; I do not.

Q. Can you while here ascertain what those relative rates were at the time of which I speak?—A. Yes, sir, I will telegraph home for them at once.

Q. Where do shipments of oil come from—where do they reach your line?—A. At Bristol and at Chattanooga.

Q. From what connecting lines of road?—A. At Chattanooga, from the Cincinnati and Southern, and the Nashville, Chattanooga and Louisville.

Q. What other point?—A. Bristol, from the Norfolk and Western.

Q. Is the Western and Atlantic a competing line?—A. Yes, sir.

Q. Are your rates generally the same?—A. Yes, sir.

Q. Do you maintain them the same in consequence of agreement?—A. Yes, sir.

Q. And you had reasons to suspect that they were carrying oil cheaper than the agreed price?—Yes, sir.

Q. And it is in consequence of ascertaining that fact that Mr. Griffin made this rate to Mr. Rice?—A. I can not speak positively, but I suppose it was. But, as I say, that transaction was conducted by Mr. Griffin.

Q. Look at this bill (handing bill to witness) and see whether a claim was made against you by Mr. Rice for the difference between a rate equal to what had been previously named to him of \$35 a car, and the rate of a hundred dollars a car to which it was subsequently advanced?—A. I do not know that a regular claim was made, although Mr. Rice I think did in his letters to me claim that I should pay him the difference.

Q. Have you no recollection of a claim being presented?—A. We have a separate claim department. We have a claim agent, and claims generally go to him. I would not necessarily have knowledge of them.

Mr. GOWEN. That is all, except that you will give us those things I referred to.

The WITNESS. I will.

EAST TENNESSEE, VIRGINIA AND GEORGIA RAILWAY,
FREIGHT DEPARTMENT,
Knoxville, Tenn., May 4, 1888.

HENRY BACON, Esq.,
Chairman Committee on Manufactures,
House of Representatives, Washington, D. C. :

DEAR SIR: In pursuance of my promise to Mr. Gowen, I beg to hand you herewith the rates on oil from Louisville and Cincinnati to Macon, Atlanta, and Savannah, Ga., during the years 1886, 1887, and 1888:

To—	From Cincinnati—		From Louisville—	
	Per barrel.	Per tank.	In barrels.	In tanks.
1886.			<i>Per cwt.</i>	<i>Per cwt.</i>
Macon, Ga.	\$2. 24	\$115. 00	44. 3	83. 2
Atlanta, Ga.	2. 24	115. 00	39. 3	80. 9
Savannah, Ga.				
1887.				
Macon, Ga.	2. 24	66. 40	44. 3	83. 2
Atlanta, Ga.	2. 24	61. 80	39. 3	80. 9
Savannah, Ga.				

The rate to Savannah from Cincinnati was made \$60 per car on January 17, 1888, and changed to 40 cents per 100 pounds on March 29, 1888. No rate was in effect from Louisville. The above rates to Macon and Atlanta remained in effect until March 29, 1888, when they were made as follows, in tank-cars or barrels:

To—	From Cincinnati—	From Louisville—
	<i>Per cwt.</i>	<i>Per cwt.</i>
Macon, Ga. ....	.37	.33
Atlanta, Ga. ....	.37	.33
Savannah, Ga. ....	.40	.40

During this time there was no difference in the rates on oil in tank-cars and in barrels between points on our own line.

Yours, truly,

T. S. DAVANT,
General Freight Agent.

At this point Mr. Baxter returned and Mr. A. F. Broaddus was recalled to the stand.

By Mr. GOWEN:

Q. Where do you reside?—A. Louisville.

Q. What is your position?—A. I am general freight agent of the Louisville, Cincinnati and Lexington division of the Louisville and Nashville Railroad.

Q. Just describe what territory your division covers or what lines of roads?—A. Between Louisville and Cincinnati and Louisville and Lexington, and the branches of the road which are the Shelby branch and the Cumberland, Ohio and Northern division.

Q. The extreme northern and southern limits of your division are, then, Cincinnati and Lexington?—A. The extreme northern limit is Cincinnati; eastern, Lexington; and western, Louisville.

Q. Will you look at that circular—

Mr. BAXTER. Will you let me see it first, please?

(Mr. Gowen handed the circular to Mr. Baxter, and after receiving it back from him, handed it to the witness.)

Q. And state what it is or whether you recognize it?—A. Yes, sir; I recognize it.

Q. What is that paper?—A. It is a circular requesting that the rates from points east of a certain line from Lake Michigan or Michigan City to Cincinnati *via* Fort Wayne and west of Pittsburgh and Buffalo to Memphis, Greenville, Huntington, Vicksburg, Natchez, Port Hickey, Baton Rouge, Mobile, and New Orleans, shall not be less than the rates current from Cincinnati at the same time.

Q. From Cincinnati or Chicago?—A. From Chicago; yes, sir.

Q. State whether or not, upon oil, the result of the adoption of that circular was not a considerable advance on the rates as they had existed previously?—A. Well, sir, I do not know what the rates were previously from Pittsburgh, etc.

Q. Had your rates on oil ever before been based on Chicago rates?—A. Perhaps not.

Q. Was not that an innovation that had never before been introduced?—A. This was a general circular and was intended to fix the rates on freights generally, and not on any one article in particular. I think it is exceedingly doubtful if any thought at all was given by any member or any person who signed this circular to the effect on the oil rates. It was probably not considered at all, because there was no oil shipped from Chicago to these points.

Q. Why was it, therefore, if there had been no oil shipped from Chicago, that Chicago was made the basis of establishing a rate which, when established, generally applied to oil? Can you give any reason for that?—A. No, sir; I was not in the meeting and therefore do not know what arguments were used to make this basis.

Q. Prior to that, had not Cleveland, Pittsburgh, Parkersburgh, and Marietta been the basing points for establishing rates on oil?—A. I do not think they were ever used as basing points.

Q. But there are oil shipments from all of those points?—A. Yes, sir.

Q. And Chicago is not an oil-producing place, is it?—A. I think not.

Q. Did you not yourself admit that you could not understand why Chicago rates should be applied under that circular?—A. I did not admit that, I think.

Q. You did not?—A. I said I did not know what the arguments were. I was not present at the meeting.

Q. I would like you to produce, if you have it, the statement that was asked for in the subpoena as to the rates at which oil was carried for various parties over your department or over your lines during the last five years.

Mr. BAXTER. Will you kindly let me know the object of that inquiry?

Mr. GOWEN. To show discriminations in favor of the Standard Oil Company and its affiliated interest, which have resulted in enabling those interests to maintain a monopoly of the oil trade, to the injury of competitors.

Mr. BAXTER. And you wish to apply that to the Louisville and Nashville Railroad, of which he is an officer, showing discriminations by that company.

Mr. GOWEN. Or any other company he knows of. I want to introduce this as part of the general testimony before this committee, showing that this monopoly could not have maintained its existence so long as it has but for the discrimination made in its favor by common carriers in violation of their obligations as such.

Mr. BAXTER. Mr. Chairman, I except to the question; and if the committee will hear me, I would like to finish what I have to say on that point before it is decided.

The CHAIRMAN. (Mr. BYNUM). I understood the argument was completed. The chairman has ruled on the question. Do you wish to proceed further?

Mr. BAXTER. If the Chair has ruled on that point I do not care to go on.

The WITNESS. I did not bring those statements.

Q. Why not?—A. I was forbidden by the vice president of the road to take any papers out of the office at first; but, later, I got a telegram on the evening of the 30th to bring as many papers as I could get together. But that telegram did not reach me until 9 o'clock, at my house, on the evening of the 30th, day before yesterday, when it was too late to obtain clerks to work up the information.

Q. Who is the vice-president of the road?—A. M. H. Smith.

Q. Where does he reside?—A. At Louisville.

Q. When he forbade you to take any papers out of the office, did he know that you were under subpoena from the House of Representatives to produce them?—A. I suppose so.

Q. Did you inform him of that fact?—A. He was informed of the fact.

Q. What reason did he give for directing you not to bring the papers?—A. The papers were not under my charge in the first place. I do not know what his reasons were. He simply ordered me not to do it.

Q. I am going to ask you a question which you may perhaps consider impertinent. To whom do you suppose you owe the greater allegiance, to the Government of your country as represented, by Congress, or to the vice-president of the Louisville and Nashville?—A. To the Government of the country I should say, at the first blush.

Q. Why, then, did you not obey its mandate and disregard that of the vice-president?—A. The papers were not under my charge. I could not have got them.

Q. I will go into the same question orally and without the papers. Will you give us from memory the rates which, say, up to the passage

of the interstate commerce act, had been maintained or allowed on your road to various parties on oil shipments?

Mr. BAXTER. I suppose the object of the question is the same as the other?

Mr. GOWEN. Yes.

Mr. BAXTER. The exception is the same.

Mr. BRECKINRIDGE (to Mr. Baxter). Does this relate to matters that have already been adjudicated?

Mr. BAXTER. I do not know what will be the effect of the demurrer to that bill in Louisville. That covers the period prior to the passage of the interstate commerce act.

Mr. BRECKINRIDGE. Has this information ever been given elsewhere?

Mr. BAXTER. I do not know that it has.

Mr. BRECKINRIDGE. This information is not, as far as you know, a matter of record, is it?—

A. Not that I know of.

Mr. GOWEN. I would say to the committee that I can not admit for one moment the validity of any excuse, or ground for excuse, to a witness for not answering a question that is pertinent to this issue, because that question, when answered, or the information elicited by the answer, may be used in some other proceeding. In the case of the Pennsylvania Railroad the committee excused witnesses from answering because we had testimony from other witnesses which had placed upon record the facts sought to be elicited. Now, this committee is engaged in an examination into the question whether railway discriminations have not enabled the Standard Oil Company to secure and maintain its practical monopoly of its oil trade. That is one, as I take it, of the most vital questions that can be examined into, because, no matter what may be said as to the propriety of permitting monopolies to grow up or combinations to exist in this country, there can be no doubt in the mind of any reasonable man that a monopoly which is secured and maintained only by railway discriminations and by the violation of the obligation which a railroad company, as a common carrier, owes to the public, to treat each shipper alike, is not only obnoxious to the law, but is obnoxious to the sense of natural justice which must move every citizen of the United States. Now, the fact that an inquiry of such magnitude bearing directly upon the point at issue and about which, when ascertained, there can be an opportunity for legislation by Congress, applicable, as I say, to the past as well as to the future, that fact alone should compel this committee to hear the testimony, and it is no answer to that fact that injury may result to some railroad company by this information getting out. Why, if it please the chairman, that is the very thing that ought to result.

The CHAIRMAN. So far as the chair is concerned the only question he is called upon to rule is simply whether the question is a pertinent question; and the question whether the committee will require the witness to answer or not is one for executive session. So far as the chair is concerned he is ready to rule that question perfectly pertinent and should require an answer.

The WITNESS. I wish to add that so far as those papers are concerned it would be a matter of months to get the information together, and the question in my mind was which of them should have the preference, because we could not get them all.

The CHAIRMAN. It is not a question now as to the papers. You stated the papers were not in your possession, and that is a sufficient

answer. The question now is, whether you have knowledge of the fact of these rates being paid. That is all that is asked for.

By Mr. GOWEN :

Q. Give us those rates. What were the rates on oil on your line up to the passage of the interstate commerce act ?

Mr. CROUSE. Won't you simplify it by giving from point to point ?

Q. Take oil that went from Cleveland south over your lines. What were the rates from Cleveland south ?—A. I could not possibly begin to remember any rates. I could not give you any actual figures from memory at all. There were hundreds of thousands of rates issued.

Q. State whether or not there was a rate on tank oil passing over your line southward from Cleveland up to the period of the passage of the interstate commerce act ?—A. Your question is whether there was not a rate from Cleveland southward.

Q. Yes.—A. Perhaps there was. I suppose there was.

Q. But was there not a large amount of oil passing over your line ?—A. Yes, sir ; there must have been rates.

Q. What were those rates ?—A. I can not answer from memory.

Q. Can not you answer as to any one of them ?—A. I could not answer what the rate was to any one point at any particular time.

Q. What was the relative difference in rates between oil in tanks and oil in barrels ?—A. I could not answer that from memory.

Q. Can you make no reference to it at all that will aid this committee in ascertaining what it was ?—A. No, sir ; I could not give you any figures.

Q. Were you not an assistant in the general freight agent's office at that time ? That is your title now, is it not ?—A. I was at that time ; yes, sir.

Q. How could you ascertain those rates ? Where would you have access to them ?—A. Rates to what point, for instance, would you take ?

Q. Take first rates going southward over your line. —A. From Cleveland ?

Q. Yes.—A. We might have some of them perhaps in our office at Louisville. Others should be in the Cleveland office.

Q. Now, Mr. Broadbuss, do you mean to say to me that there would be any difficulty whatever in turning back your manifest and record and determining exactly the rates at which you carried oil ?—A. At any particular time ?

Q. Yes.—A. No, sir ; if you set the time.

Q. What were the shipments of oil over your lines per annum, do you suppose, in 1886 or 1887 ?—A. I do not know.

Q. Have you any knowledge upon that subject ?—A. I do not know ; perhaps 40,000 or 50,000 tons.

Q. Do you not know that your net rate, after all allowances and rebates on oil carried for the Standard Oil Company or the Chess-Carley Company, or the Waters-Pearce Company, or companies affiliated to the Standard Oil Company, were greatly less than were charges for oil to individual shippers in competition with them ?—A. That I respectfully decline to answer, under advice of counsel.

Q. Do you not know that your rates were often, when reduced to charges per barrel of oil carried, less than half the rates that you charged others—that your rates to the Standard Oil Company were less than half the rates you charged others ?—A. I know that there was a difference between the rate on oil in barrel and in tanks, but I could not say what the relative difference was.

Q. Do you not know that it was often as much as one-half?—A. I can not recall whether we have had it as much as one-half or not.

Q. Who did you communicate with on the subject of rates on oil to the Standard Oil Company? Who among the officers of that company, or who did you come in contact with, that represented that company or any of its affiliated interests?—A. Communications were addressed to the company.

Q. What was the name of the company?—A. Standard Oil Company, you say?

Q. Any of the companies connected with the Standard Oil Company?—A. The Standard Oil Company primarily, Chess-Carley Company.

Q. Had they any agent in your vicinity that represented them?—A. The Chess-Carley Company had.

Q. Who was he?—A. They had a general office in Louisville and a number of offices.

Q. Who were they?—A. Mr. F. D. Carley was formerly there.

Q. Any others that you can remember?—A. Latterly, Mr. Howard Page.

Q. Do you remember attending a meeting in Louisville about the 14th of last March on the subject of oil rates in consequence of the then recent decision of the Interstate Commerce Commission on the subject?

—A. No, sir.

Q. Did you attend such a meeting?—A. No, sir.

Q. Did Mr. Culp?—A. I do not know.

Q. You remember that decision to which I refer, do you not?—A. Yes, sir.

Q. Now state, if any, what changes were made in your rates on oil in consequence of that decision?—A. I would like to say that I have no charge whatever of the rates south of the Ohio River—I mean south of Louisville—and was not familiar and am not familiar with what has been done recently with regard to rates south of Louisville.

Q. Over any portion of your territory do you know whether the relative difference, or any difference whatever, is now maintained per hundred pounds in the rate on oil in tanks as compared with the rate on oil in barrels?—A. My understanding is that the lines south, our line included, apply the same rate per hundred pounds upon oil in tanks as upon oil in barrels per car-loads.

Q. When was that done?—A. Subsequent to the decision of the Interstate Commerce Commission; I can not give you the date.

Q. The fact has come to your knowledge?—A. Incidentally.

Q. Has it not come to your knowledge in order that it may be applied by you in the management of your business?—A. It was always so, so far as my division is concerned. We never made any difference on the local rates.

Q. But your division of the rate, when it is a part of the through rate, has to prorate, I suppose, with all other companies on the through rate?—A. Those rates would not be under my jurisdiction.

Q. Do you know of private or secret rates or rebates paid to the firm of Chess, Carley & Co. on oil?—A. I must decline to answer that question.

Q. State whether or not there is not in your office or in one of the offices of your company or department a book called a rebate book, or some similar name, in which a record is kept of all drawbacks for secret or special rates allowed Chess, Carley & Co. up to the time they went out of business, and to the Standard Oil Company subsequently?—A. I decline to answer that question.

Q. What weight per car-load were the rates to the Standard Oil Company or Chess-Carley Company based upon?—A. What weight per car-load?

Q. Yes.—A. They were not made by me. I can not answer that question.

Q. Well, I do not want to take any advantage of you. You see this is another way of getting at the same thing you have declined to answer. Can you not tell us how many pounds per car-load were charged for tank car-loads?—A. It was divided in times past. It began a good while ago when the maximum rate of all car-loads was 20,000 pounds. I can not say what they are charging at present.

Q. Up to what period was the estimated weight of 20,000 pounds carried?—A. I can not answer that.

Q. Was it not carried up to within a year past?—A. Possibly; I do not know.

Q. Do you not know that fact?—A. Well, I should say it was.

Q. Now, can you tell us up to what period within the past year?—A. No, I can not.

Q. Is not the weight of 100 barrels of oil in a tank 32,500 pounds?—A. It is about that.

Q. And the weight of 120 barrels in a tank would be about 39,000 pounds, would it not?—A. About that.

Q. Now, as a matter merely of arithmetic, and only for the purpose of getting it upon the minutes, if a car weighing, say, 39,000 pounds was transported and charged only as 20,000 pounds that would be but little over one-half the rate it ought to pay, assuming that it should pay by weight, would it not?—A. Yes, sir.

Q. When oil was shipped by Chess, Carley & Co. over your line, whose statement did you take as indicating either the quantity or the weight of the oil?—A. It was on the bill of lading weight, I suppose.

Q. Did you ever weigh the oil?—A. I did not; no, sir.

Q. Or your company?—A. Not that I am aware of.

Q. Or gauge the tanks?—A. I think not.

Q. You are familiar, are you not, with the trade circular that is issued giving the numbers and the capacity and weight of the various tank cars that are in existence in the United States?—A. I have not seen such a circular. I have heard of it.

Q. You know that there is such a circular issued?—A. I have heard that there was, but I have never seen it.

Q. Have you any arrangement with other roads to maintain rates on oil?—A. No, sir.

Q. Had you last year?—A. Not to my knowledge.

Q. Do you know that your road, the Newport News and Mississippi Valley, the Illinois Central, the Ohio and Mississippi, and the Mobile and Ohio agreed to maintain rates on oil?—A. No, sir.

Q. You do not know that?—A. I do not know that.

Q. Do you know that your rates are identical?—A. Well, I say I did not know that. There is a general agreement to maintain rates from points common to two or three of the lines.

Q. When was that agreement made?—A. It is not a formal agreement.

Q. An understanding?—A. Yes, sir; it is an understanding.

Q. By whom was that made?—A. That is an understanding made whenever rates are changed.

Q. All the companies agreed to maintain these same rates?—A. Yes, sir; that is the understanding.

Q. Can you tell what your rates on cotton-seed oil and turpentine are as compared with the rates on coal oil?—A. No, sir; I can not.

Q. Are they one-half as much as the rates on coal oil?—A. I can not answer that.

Q. You ought to know something about it. Are they not very much less than the rates on coal oil?—A. I do not know, indeed; I absolutely can not answer.

Q. Does not traffic of that kind pass over your division?—A. None except through traffic over which I have no control.

Q. Mr. Culp would know that?—A. Possibly.

Q. Somebody in your company must know it?—A. I do not.

Q. What officer has charge of that?—A. Mr. Culp.

Q. He is general freight agent, is he not?—A. Yes, sir.

Q. As a railroad man, can you tell me if it costs any more to haul a tank loaded with turpentine or cotton-seed oil than it does to haul a tank loaded with coal oil?—A. No, sir; nor silk or jewelry.

Q. But is not the value of cotton-seed oil greater than the value of coal oil?—A. Yes, sir; I think it is.

Q. And is it not one element of railroad charges to charge more for a more valuable product on account of the risk in transit?—A. Well, I suppose that is taken into consideration in some cases.

Q. Not in all?—A. Not necessarily all.

Q. Would you carry a cargo of silk at the same rate as a cargo of pig-iron or iron ore?—A. If that was the only way to get it I expect we would. If necessary to make as low rate on silk as pig-iron I have no doubt railroads would do it.

Q. But would not the loss of one car-load of silk involve a loss of more money than the freight payments would amount to in a year?—A. It might.

Q. But as a general thing?—A. You are right. As a general thing that is so, but not entirely, of course.

Q. If cotton-seed oil is a more valuable product than coal oil would not the railroad require a higher rate?—A. If there were no other circumstances.

Q. What other circumstances would there be except competition to get the freight?—A. Well, one thing would be the price of the article in various markets. The difference in the prices.

Q. That is the question of whether the article would bear the rate?—A. Yes, sir; that is one circumstance.

Q. Do you not know that the cotton-seed oil traffic in the South is practically controlled by a trust?—A. Well, I only know from hearsay, I know nothing about it from my personal knowledge. I only know what I have seen in the papers.

Q. What?—A. That most of the mills were controlled by one or two companies.

Q. Now, if two parties are engaged in the transportation of oil southward and rates on cotton-seed oil going northward carried as back loading are very much less than what the fair rate should be with reference to the market value or other considerations, and if only one party shipping petroleum could get any back load, would not that party have an advantage over the other in the shipment of petroleum resulting from the reduced rate that he has got on his cotton-seed oil?—A. I will have to trouble you to state that question again.

Q. If there were two competing shippers of petroleum shipping oil southward over your line and only one of them could get cotton-seed oil back and if the rate on cotton-seed oil was made much lower than it

ought to bear with reference to its market value, or the price at which it could be sold, would not that shipper of petroleum who could secure the back, loading and get the benefit of that rate have an advantage over the man who could not?—A. Well under the circumstances you state, I should say he would.

Q. Unquestionably?—A. Unquestionably.

Q. Therefore does it not follow that if the entire cotton-seed oil business of this country is thrown into a trust, and that trust coalesces or combines with the largest shipper of petroleum, whereby that shipper alone can get the benefit of a low rate as back loading, that that shipper of petroleum, by reason of that combination, would have a great advantage over the man who could not?—A. That is the same question.

Q. It is the same question only directly applied. What is your answer?—A. Yes, sir.

Q. Then are there not several methods, that among others, by which if a railroad company desires to give the benefit of a discrimination to one of its shippers, it can make that discrimination while at the same time it is maintaining exactly the same rates on the original cargo that goes south?—A. I should think not. I do not see why, if we maintain the same rate in both directions for all parties, there is any discrimination.

Q. But if only one party can get back loading, and if the result of the back loading is to diminish the cost of the whole venture, including the first loading, does not the man who gets the back loading have an advantage over the man who can not?—A. In what respect does he? I do not see that he does.

Q. I will put it in this way: Suppose a man sending 100 barrels of oil at your fixed rates, which are identical to all, who as the result of that venture over your line makes 20 cents a barrel on his business, and that man, by loading his cars with cotton-seed oil coming back can make 50 cents a barrel on his cotton-seed oil, would not that man have a great advantage in business as against a man who shipped the coal oil only and made the 20 cents, but had no chance to make the 50 cents a barrel on the back loads?—A. You mean to say if the railroad refused to give him a chance to get the back loads.

Q. Or if he could not get it in any way?—A. Why, certainly, if the railroads refused to give him the same favors.

Q. Does it make any difference to that man whether the railroads decline to give him that rate, or whether, by virtue of a combination which controls the product and enters into an alliance with his competitor in the oil trade, he can not get any cargo on which the rates shall apply, is he not just in the same box?—A. That is asking a question of mercantile matters which, it seems to me, is outside of all railroad business with which I am familiar. I do not know anything about their dealings in cotton-seed oil. Certainly the railroads do not control it.

Q. But you have admitted that if the railroad refused to give this man a rate by which he was enabled to get a back load, he would be at a serious disadvantage?—A. Yes, sir.

Q. Now, if the railroad does give him a rate, and he has no cotton-seed oil to carry, what is the use of the rate?—A. In that case he would not want a rate.

Q. And, therefore, he would be in the same box?—A. Therefore the railroad would not refuse him a rate.

Q. No; the railroad would not refuse to give him a rate?—A. Not if he did not want a rate.

Q. If they were certain he had no business to carry over it?—A. No, sir.

Q. Do you not know, as a fact, that the Standard Oil Company and its affiliated industries practically are the only ones that control transportation of cotton-seed oil?—A. I do not.

Q. Do you come in contact with that question at all?—A. I do not know what the Standard Oil Company has to do with the cotton-seed oil trade, personally.

Q. State whether or not you pay mileage both ways on the cars of the Standard Oil Company, loaded and empty?—A. I think we do. I am reasonably sure of it.

Q. State what that rate is.—A. Three-fourths of a cent, I think.

Q. Mileage each way?—A. I think so. I can not state that positively; it is out of my department; but I am reasonably sure that is the rate.

Q. Have you any recollection of Mr. George Rice, of Marietta, applying to you to know whether he could put his own tank-cars on your line?—A. He never did apply to me, or to the company, to my knowledge.

Q. Did you not, or somebody in your office, with your knowledge and consent, state that you would charge him from $1\frac{1}{2}$ to 3 cents a mile for hauling his empty cars back?—A. I do not know.

Q. Have you any knowledge on that subject?—A. No, sir.

Q. State whether or not you paid commissions or compensation of any kind to any one for securing you oil business upon your road.—A. Not to my knowledge, and I could almost say positively not.

Q. Are you sure of it?—A. Well, I am reasonably sure of it.

Q. If such compensation or commission were paid what would be the method by which the money would be drawn from the treasury of your company. Would it be through the freight department?—A. Well, it is a kind of dealing that I am almost sure our company never went into, and therefore we have no method of paying any such amounts.

Q. Do you know what your rates are, or the difference between the rates, when they apply to full car-loads and when they apply to less than car-loads?—A. Yes, sir.

Q. What is the difference, say, in your territory?—A. First-class and fourth-class.

Q. That is, you charge for less than car-loads first-class rates, and for full car-loads fourth-class rates?—A. Yes, sir.

Q. When was that classification adopted?—A. Well, July, 1881, is as far back as I can remember; perhaps before that.

Q. And it has remained ever since?—A. Yes, sir.

Q. Did you make any change upon that subject when the interstate commerce act went into effect?—A. No, sir; my line is all in the State of Kentucky, except from Cincinnati.

Q. I will ask you whether you were examined as a witness in the case of George Rice against the Louisville and Nashville Railroad before the Interstate Commerce Commission?—A. No, sir.

Q. Mr. Culp was, was he not?—A. Yes, sir.

By Mr. BRECKINRIDGE:

Q. How long have these tank cars for oil been in use on your road?—A. Prior to 1880. I do not remember the year, some year prior to 1880, possibly as far back as 1875.

Q. Has your road charged at all times uniform prices to parties, or have your prices been free from any discriminations as regards hauling coal oil in tank cars?—A. That is one of the questions I will have to decline to answer.

Q. I ask that at the request of your counsel. I will put in this way, whether, during this whole period, the rate on tank cars has been open and equal to all alike. Do you still decline to answer? Perhaps you know more about this case than the counsel.—A. I decline to answer.

Mr. BRECKINRIDGE. Your counsel, you know, requested that I ask that.

The CHAIRMAN. He declines now on his own responsibility.

By Mr. BRECKINRIDGE:

Q. On whose responsibility do you decline to answer?—A. Under the general instructions of my counsel.

Q. I will repeat the question. Are the rates that have been charged on tank cars open to any and everybody that has tank cars, or who offers tank cars for shipment?—A. Yes, sir.

Q. Has that uniformly been the case?—A. There have been, possibly, some differences. I can not recall any, but I do not like to answer positively without remembering.

Q. So far as you know?—A. Yes, sir; so far as I can remember.

Q. I understand your answer to be that so far as you know the rates are the same to all parties?—A. The charge on oil in tank cars to all parties has been the same.

Q. Is the same true where a car is loaded with barreled oil? Has the tariff been uniformly the same to all parties?—A. Possibly not.

Q. You are not so certain about that?—A. No, sir.

Q. Can you answer with certainty that it has not, or with certainty that it has. Have you any certain knowledge on that subject?—A. I do not think they have been the same. They have not been the same at all times.

Q. Are these tank cars of a uniform capacity?—A. No, sir; they vary considerably in capacity.

Q. When they first began to be used, were they for awhile of uniform capacity?—A. When they first began to be used on our line they were, I think, all of uniform capacity.

Q. When did you first remark the difference in the capacity of different cars?—A. I did not notice the difference at all. I would not see them. My duties do not require me to see articles of freight which are handled. I am in the general office and would not naturally see the cars.

Q. Do you know what the present capacity is of what would be called a large tank car?—A. No, sir.

Q. Do you remember the capacity of the early tank cars?—A. I do not remember positively; probably about 65 or 70 barrels.

Q. I think it was elicited a while ago that the present capacity of a tank car was considerably more than that. Was it not, Mr. Gowen?

Mr. GOWEN. Yes, sir; they run up to 120 barrels.

Q. I think you concurred in that testimony?—A. The question was what the weight of 120 barrels would be.

Q. Has your road uniformly charged the same amount per car, without regard to the differences in the sizes of the cars?—A. It has to some points; yes, sir.

Q. And to other points it has made a distinction between the sizes of cars?—A. Yes, sir; because the rate was per hundred pounds to some points and per car to other points.

Q. Per car, regardless of size?—A. Yes, sir.

Q. To what points did you have a pound rate and to what points a car rate?—A. I can not recollect that,

Q. How is the ownership of these tank cars distributed, as far as you know? Does your road own any of them?—A. We owned a number of cars. I can not state whether we do now or not. We did own a number of car bodies upon which tanks were placed, and my recollection is that the tanks themselves belonged to the Chess-Carley Company and the cars to the railroad.

Q. Who owned the tanks, then, that went over your road?—A. Some of that kind went over; and some of the kind that belonged to the Union Tank Line.

Q. So far, then, as you know, all the tanks that went over your road belonged either to Chess-Carley Company or the Union Tank Line?—A. So far as I can recollect. There may have been others.

Q. Is there a general ownership of tank cars outside of those two concerns?—A. Oh, yes, sir; I think there are a number of lines and companies that have tank cars.

Q. But so far as you know, they never passed over your road?—A. So far as I know; I do not remember; I have no doubt that some of them have been used over our road.

Q. Did they fail to pass over your road because of their being excluded in any way?—A. I do not know that, sir. I recall now that there were a good many kinds of cars that did pass over our roads.

By Mr. GOWEN:

Q. If there is the same rate on tank cars to everybody and they are all treated exactly alike, honorably and fairly, by the railroad company, yet only one shipper can get tank cars, the rest are not much better off for having the rate are they?—A. No, sir.

Q. You would think not?—A. I would think not.

Q. It is quite safe for a railroad company which desires to be honest and discriminate at the same time?—A. Our railroad company has no tank cars of its own.

Q. Oh, no; but is it not quite safe for a railroad company which desires to be honest and at the same time to prevent any other person from shipping, except one person, to make a broad open rate to everybody when they know that only one person can take advantage of it?—A. Quite safe, I should think.

Q. Did Mr. Rice ever ask you to let him have some of your trucks upon which these tanks of other persons were carried?—A. No, sir; he never asked me and I do not know that he ever asked any officer of the company. He may have done it.

Q. But do you permit those tank cars, the tanks of which belong to Chess, Carley & Co., and the trucks of which belong to your own company, to be used by anybody but the owner of the tanks?—A. I ought to have explained that I do not know exactly under what conditions the Chess-Carley Company obtained those bodies from our company. I was never familiar with the arrangement; possibly they may have leased the cars. I do not know that they have, or what their arrangement is.

Q. That is, what the details of the arrangement are; but the fact is that Chess, Carley & Co. have secured the use of those cars?—A. Yes, sir.

By Mr. BYNUM:

Q. What proportion of the cars going south over your line loaded with petroleum come back loaded with cotton-seed oil?—A. I could not give you the exact proportion, but I should say most of them.

Subject to Southern Railway and Steamship Association classification, with the following exceptions:

Articles.	Class.	Articles.	Class.
Apples, onions, and potatoes	B	Mineral waters, C. L.	6
Baking powder	4	Mince meat	6
Bar lead and shot, all kinds	6	Meats, fresh, in refrigerator cars, C. L. of not less than 20,000 pounds, to Memphis, 30 cents per 100 pounds; Vicksburg, 50 cents per 100 pounds; Mobile, 50 cents per 100 pounds; New Orleans, 50 cents per 100 pounds.	
Base-ball bats, crated	4	Oat meal:	
Beef, dried and smoked, in boxes and barrels	5	In boxes	4
Beef and pork, in quarter and half barrels	B	In barrels, same as flour	6
Beer, bottled, packed in casks, car-loads, 10 per cent. less than Class E.		Oils, other than coal, in barrels	6
Bellows	2	Oil, coal or its products, in barrels, C. L., O. R. L.	6
Bluing, liquid or otherwise	3	Pictures, framed, released, value not to exceed \$25 per package	1
Butter, in refrigerator cars	1	Paraulps, O. R.	6
Cans, empty, oyster or fruit:		Pickles:	
C. L. L.	1	L. C. L.	5
C. L., minimum weight 20,000 pounds	5	In glass or wood, C. L.	6
Carrots, O. R.	6	Pigs' feet	6
Candles, soap, and starch	B	Pears, in 50-box lots and over	4
Canned goods, C. L.	5	Post-hole diggers, L. C. L.	3
Canned salmon, C. L.	6	Sausage	6
Canned meats	6	Scales and scale-beams, boxed	4
Cheese:		Scythe-stones:	
C. L., in common cars	5	L. C. L., O. R.	4
In refrigerator cars	3	Loaded with C. L. grindstones, O. R.	6
Coffee, essence or extract of	4	Seeds, grass and clover, C. L.	B
Concentrated lye, C. L.	6	Spring beds and woven-wire mattresses, K. D. and tied in bundles of two each, released	1
Condensed milk, boxed	5	Straw boards	6
Crackers	4	Stoves and hollow-ware	6
Copying presses	3	Staves, headings, and shooks, C. L.	A
Cider, C. L.	B	Tobacco, plug	3
Doors, sash, and blinds:		Tongues and spare-ribs	B
L. C. L.	5	Tripe	6
C. L.	B	Trunks and valises, C. L., minimum weight 20,000 pounds	4
Earth and sicc paints	B	Turnips, O. R.	6
Fertilizers, C. L., 24,000 pounds	D	Vegetables, mixed, C. L., O. R.	6
Fishing-poles, in bundles	1	Vinegar, O. R., C. L.	B
Fence wire, C. L.	B	Wagon and carriage skeletons and boxes:	
Fire-brick and clay	D	C. L.	6
Garden seeds, C. L.	5	L. C. L.	4
Grindstones:		White lead	B
C. L., mounted or otherwise, O. R.	B	Woodenware, C. L., actual weight	4
L. C. L., mounted, O. R.	4		
Glucose and grape sugar, C. L., 24,000 pounds	A		
Hand grenades, O. R., released	3		
Hay, compressed	A		
Jackscrews	4		
Jellies, in wood	4		
Lumber, C. L.	B		
Matches, C. L.	4		

No single shipment will be carried for less than 100 pounds first-class rate.

Ale and beer in wood—When shipped in full car-loads, there will be allowed 4,000 pounds of ice or packing, per car, free, and all excess to be charged same as beer.

Minimum weights for car-loads of light or bulky freights will be 20,000 pounds, unless a lower one is provided for in the body of the classification.

Minimum weight on heavy freights will be 24,000 pounds when this weight can be loaded in common cars.

And we hereby notify all concerned that on and after June 1, 1896, we will not accept, south of Cincinnati, Louisville, Evansville, or Cairo, less than our agreed percentages of the minimum through rates named above.

Very respectfully,

H. COLLEMAN,
G. F. A. Cincinnati, New Orleans and Texas Pacific Railway.
 J. M. CULP,
G. F. A. Louisville and Nashville Railroad.
 B. F. MITCHELL,
G. F. A. Chesapeake, Ohio and Southwestern Railway.
 A. J. KNAPP,
G. F. A. Louisville, New Orleans and Texas Railway.
 C. J. WALLER,
G. F. A. Mobile and Ohio Railroad.
 D. B. MOREY,
G. F. A. Southern Division Illinois Central Railroad.
 L. A. EMERSON,
G. F. A. Missouri Pacific Railway.

TESTIMONY OF J. M. CULP.

J. M. CULP, sworn and examined.

By Mr. GOWEN:

Q. What is your business or occupation?—A. I am the general freight agent of the Louisville and Nashville Railroad.

Q. Where do you reside?—A. Louisville.

Q. How long have you occupied that position?—A. Over seven years.

Q. You have charge of making rates, I suppose, on business over the lines as general freight agent? You make the rates, do you not?—A. Yes, sir; subject to approval.

Q. By whom?—A. By the traffic manager at present.

Q. How long have you had an officer called a traffic manager?—A. Since the 1st of last January.

Q. Do you report to him?—A. Yes, sir.

Q. Prior to that you did not report to any officer I suppose, except the president or board of directors?—A. I reported to the vice-president.

Q. You have been asked to bring with you or to produce a statement showing the rates charged by your company on oil and the rebates allowed to various parties for the last five years. Have you got such a statement?—A. No, sir; I have not.

Q. Why not?—A. I did not have time to get up the information in time to bring it with me.

Q. Were you directed by anybody not to bring any papers from the office?—A. Yes, sir.

Q. By whom?—A. By the vice-president.

Q. Mr. M. H. Smith?—A. Yes, sir.

Q. And he knew, when he so directed you, that you were under subpoena to produce those papers?—A. I do not know.

Q. You do not know that fact?—A. I presume he did, but I do not know it.

Q. In what manner; what led to the intercourse between you on that subject?—A. He served notice upon me.

Q. In writing?—A. Yes, sir.

Q. Have you got it?—A. No, sir.

Q. Where is it?—A. In my correspondence.

Q. At home?—A. Either here or at home. I have a lot of correspondence with me.

Q. If here, will you kindly let me have it?—A. By direction from the vice-president or traffic manager I will.

Q. And not without?—A. No, sir.

Q. In other words, you consider then that your allegiance is primarily due to your superior officer in the railroad company and not to the United States?—A. The records of the freight department of the Louisville and Nashville Railroad are not my property. They are the property of the road. I do not control the road and have no right to take any of its papers.

Q. Have you not in your department a book showing the rebates or allowances or net rates at which oil has been carried by Chess, Carley & Co. over your line?—A. By advice of counsel I respectfully decline to answer that question.

Q. Will you tell us from memory, if you will not produce the papers, what the rates on oil have been, the net rates, to Chess, Carley & Co. over your line?—A. I could not possibly remember the rates.

There are hundreds of thousands of rates over our road and I make no profession to carry any of them in my memory.

Q. But can you not tell us what proportion of the rate per barrel the rate to Chess, Carley & Co. was as compared with what other people paid?—A. I have no recollection, sir.

Q. You mean to say under oath here you could give us no information upon that subject unless it was derived from the production or examination of the papers?—A. I could not give any correct information, any information that I would be willing to swear to.

Q. You could not?—A. No, sir.

Q. Do you not know as a fact that your tank rate on through oil was less than one-half the rate on barreled oil?—A. The rate on tank oil has been less than the rate on barreled oil. Those rates are posted in our depot, were filed, and are filed with the Interstate Commerce Commission and are matters of public record.

Q. But that is the public rate. What was the secret rate to Chess, Carley & Co. prior to the passage of the interstate commerce law?—A. I decline to answer.

Q. What was the secret rate to Chess, Carley & Co. subsequent to the passage of the interstate commerce act, and prior to the recent decision of the Interstate Commerce Commission?—A. Since the interstate commerce bill became a law there has been no discrimination in rates as between individuals.

Q. Except that tank oil went cheaper than barreled oil?—A. That is not discrimination between individuals.

Q. But that is a fact, is it not, that the rates on tank oil are cheaper than on barreled oil?—A. Yes, sir.

Q. Were you one of the signers of that circular which has been offered in evidence [referring to exhibit marked G. B. E. 2]?—A. My name appears upon that circular.

Q. You authorized the issue of that circular, did you not?—A. I can not recollect; I presume so.

Q. State whether the effect of this circular was not to apply Chicago rates to the roads that are here named.—A. If carried out it would apply Chicago rates as a minimum.

Q. Had that system of applying rates been in existence before on these lines? Had Chicago governed these rates prior to that circular?—A. The rates on our line have been more than Chicago rates.

Q. But that is not the question. Had Chicago rates governed these rates prior to the adoption of this circular?—A. There was no fixed correlation of rates between rates to Chicago and to these points.

Q. Prior to the adoption of this resolution?—A. Yes, sir.

Q. State whether or not, as a fact, the result of this circular did not raise the rates on barreled oil which they controlled.—A. I can not state as to the fact, but my belief is not.

Q. Do you not know that although the classification on oil in barrels was reduced from fifth to sixth class in this circular, as a matter of fact the cost of moving a barrel of oil over your road was increased in consequence of the application of this rate to oil?—A. I do not know it. It may be proper to state that the question of oil was not likely thought about when that resolution was passed. It was intended to prevent lower rates from being made from the section covered by this resolution than rates from Chicago on articles that were shipped in common from the section.

Q. But Chicago was not a shipping point or producing place for oil, was it?—A. No, sir.

Q. State whether or not prior to the adoption of this circular Parkersburgh, Pittsburgh, and Marietta had not been the basing points for rates on oil.—A. Prior to the adoption of the circular the authorized basis of rates from each section was that they should be less than the rates given from Cincinnati, and this resolution provided that they should be not less than rates from Chicago. (No answer.)

Q. If I am to understand from you that you will decline to answer all questions that will give us any knowledge of the exact rate or rebate or allowance at which oil was carried for Chess, Carley & Co., in comparison with the rates paid by others; I will not ask you any more questions upon that subject. Am I to understand that?—A. I can tell better when you ask the questions.

Q. State whether or not, as a fact, the rates allowed to Chess, Carley & Co., and to their successors, the Standard Oil Company, were any lower than the rates allowed to other people?—A. I decline to answer that question.

Q. State whether or not drawbacks or allowances or other payments were not made to Chess, Carley & Co., on petroleum, which were not allowed to other people?—A. I decline to answer that question.

Q. State whether or not Chess, Carley & Co., or their successors, the Standard Oil Company, did not obtain through you or through persons in your employment knowledge of all other shipments of oil and the rate at which it was established.—A. No, sir.

Q. You were asked by the subpoena to produce all the correspondence between yourself and the Standard Oil Company?—A. Yes, sir.

Q. Have you produced that?—A. No, sir.

Q. Why?—A. For the same reason that I do not produce rates and rebates, etc.

Q. That is, you were directed not to do it by your superior officer?—A. That I did not have the time to do it, after receiving notice to do it.

Q. But if you had had time would you have produced it?—A. If instructed to do so.

Q. You were instructed not to do it?—A. Yes, sir.

Q. Then would you have produced it?—A. No, sir.

Q. Then your failure to produce it is also to be ascribed to your instructions from your superior officer?—A. Ascribed directly to my want of time to do it.

Q. Is not your correspondence outward and inward contained in books on file in the office?—A. Yes, sir; contained in files.

Q. Would it have been difficult to have laid your hand upon those files?—A. It would have taken a great deal of time.

Q. How many books would the correspondence of three years with the Chess Carley Company be contained in?—A. Our books of correspondence do not contain only the correspondence with Chess-Carley Company, but I do not exaggerate when I say hundreds of thousands of people, and are very voluminous. Then our rates are kept in rate books, of which there are hundreds.

By Mr. SMITH :

Q. Where is the headquarters of your business?—A. The president's office is in New York.

Q. Of the Louisville and Nashville line?—A. Yes, sir.

By the CHAIRMAN :

Q. Where are the executive offices, Mr. Smith means?—A. In Louisville.

By Mr. SMITH:

Q. Is the vice-president of your road in Louisville?—A. His headquarters are there.

At this point the committee took a recess until 2.30 o'clock.

AFTER RECESS.

JOHN M. CULP—Recalled.

By Mr. GOWEN:

Q. I understand now that you are willing to give us some information, if not as to rates, as to the relative difference of rates between Chess, Carley & Co. and other people, or whether you have given them preferential rates. Did you not give preferential rates to Chess, Carley & Co. and the Standard Oil Company, which were not given to other people?—A. Prior to the 5th of April we did give in some instances less rates to the Standard Oil Company and Chess, Carley & Co. than we gave to other shippers. Those companies gave us their business to all points that we could reach, and gave us a large and regular business, and we gave them lower rates in some instances.

Q. I understand you that you justify your action on account of them giving you a large amount of business?—A. They gave us a large amount of business, and gave us business to many points that other shippers did not give us business to; did not ship business to Memphis, New Orleans, Vicksburg, and Mobile by river and by other routes than ours.

Q. Now, you allowed them mileage both ways on their tank cars, did you not, going and returning?—A. No mileage whatever was paid them on the cars or boats which were furnished by the Louisville and Nashville Railroad.

Q. On their other tank cars?—A. My belief is three-quarters of a cent a mile was allowed in both directions.

Q. Did you charge Mr. Rice at any time for hauling his empty cars?—A. Not that I am aware of.

Q. Did you not inform him that you would charge from a cent and a half to three cents a mile for hauling back his empty cars?—A. I think I did. Because I told him that we would charge him a cent and a half to three cents a mile for hauling his empty cars back, it did not follow that we would not pay him mileage the same as we do on all foreign cars.

Q. What is your rule with regard to paying mileage on foreign cars?—A. Three-fourths of a cent.

Q. You never charge the foreign cars of other companies for hauling them back empty?—A. If we receive a car-load transported over our line, we return it empty. We do charge the railroads for hauling empty cars.

Q. For instance, if empty cars from a foreign factory are going over your road in transit you charge for hauling them?—A. Yes, sir.

Q. You were not making any charge to the Standard Oil Company on their tank cars?—A. But most of their cars were coming back loaded, and the proportion of tank cars returned empty was, I think, quite as low, or perhaps less than that of box cars, in my opinion.

Q. In that instance you not only made no charge for hauling them back empty, but you paid them a mileage for carrying back empty cars. You paid the Standard Oil Company three-quarters of a cent a mile?—A. Yes, sir; and we would have paid that to Mr. Rice.

Q. If you paid him three-quarters of a cent a mile for hauling back his empty cars and charged him from a cent and a half to three cents for carrying them, he would have come out of the little end of the horn, would he not?—A. No, sir; if he had furnished us a like portion of return load we would have charged him nothing either.

Q. Did you not refuse to give him a rate on turpentine as a return load from Mobile, where he had an agency, and was doing business?—A. I do not remember.

Q. Can you not remember that?—A. No, sir; I can not.

Q. You were at the meeting in Louisville on March 14, 1888?—A. Yes, sir; I believe that was the date; it was in March.

Q. That was a meeting called to adjust rates on these southwestern lines, due to the interstate commerce decision for carrying oil?—A. Yes, sir.

Q. Do you remember who called that meeting?—A. I think the executive officers of the several lines instructed their freight agents to meet at Louisville. I was instructed by my traffic manager.

Q. Who were present at that meeting?—A. Mr. H. Colburn, general freight agent of the Cincinnati, New Orleans and Texas Pacific; B. T. Mitchell, general freight agent of Newport News and Mississippi Valley, western division; D. B. Morey, general freight agent of the Illinois Central Road, southern division; H. Coop, commercial agent of the Ohio and Mississippi Railway at Cincinnati, and myself.

Q. Had you any communication with any representative of the Standard Oil Company upon the subject of the rates you were to adopt?—A. No, sir.

Q. Upon the fact that you had a meeting there?—A. I had said to a representative that we were going to revise our oil rates.

Q. Did you have any communication with him upon the subject?—A. No, sir.

Q. Who was the representative?—A. Howard Page. After the meeting I notified Mr. Page that the meeting had adopted the same rates on tanks as on barrels.

Q. Now, in adopting the same rates on tanks as on barrels, did you make that rate per hundred pounds?—A. Yes, sir.

Q. How many pounds did you count to a gallon or a barrel of oil when carried in a tank?—A. An average of $6\frac{3}{10}$ pounds to the gallon.

Q. You adopted that average of $6\frac{3}{10}$ pounds to the gallon when carried in tanks?—A. Yes, sir.

Q. Don't you know, as a matter of fact, that refined oil, illuminating oil, weighs $6\frac{1}{2}$ pounds to the gallon?—A. I have understood that refined petroleum does.

Q. Why did you adopt a lower rate?—A. Because we ascertained that $6\frac{3}{10}$ was the average of naphtha, refined petroleum, and lubricating oils as fixed by the New York Exchange or Board of Trade.

Q. Do not lubricating oils weigh $7\frac{1}{2}$ pounds?—A. We took what they had determined as an average. I had no reason to believe I was mistaken.

Q. You took what you believed to be the rate of the board of trade who deal with the subject?—A. Yes, sir.

Q. If the average weight that you have adopted is an average based upon petroleum, naphtha, and benzine, does it not follow that a man who ships nothing but refined petroleum and pays for 400 pounds per barrel is somewhat at a disadvantage as against his competitor who gets his oil carried at a little less rate than its actual weight, because the aver-

age weight of refined petroleum and naphtha may be lower?—A. I think not, because the man who ships the naphtha is at a disadvantage. That is to say, he pays more than he otherwise would. But I am not aware of there being any refiners who ship refined petroleum alone and do not ship naphtha.

Q. You think they would ship about the same quantity?—A. My understanding is they ship the same proportion; but I am not fully advised as to that.

Q. Can you tell me whether your rates on coal oil from Cincinnati to Savannah are not 40 cents a hundred pounds now?—A. Yes, sir.

Q. Is not the return rate on turpentine 25 cents?—A. I can not tell.

Q. Don't you know it is greatly less than the rate on coal oil?—A. It is usually very low as against the water competition from Savannah; but I do not remember whether it is 25 cents or more.

Q. Is not turpentine a much more valuable product commercially than coal oil?—A. Yes, sir.

Q. Four or five times as much?—A. I am not posted as to that, but I think four or five times as much.

Q. Don't you know, as a matter of general information, that there is a cotton-seed oil trust?—A. I have heard there is.

Q. That controls the shipments of cotton-seed oil?—A. It controls a portion of it.

Q. Does not cotton-seed oil come back as return loading in petroleum cars?—A. To a certain extent.

Q. Quite largely, certain portions, is it not?—A. I can not say whether it is quite largely or not, but there is a great deal of it.

Q. What is the rate of cotton-seed oil coming back?—A. I do not know.

Q. Is it put upon the same category as coal oil or turpentine?—A. It is made a rate to itself usually.

Q. Is it lower or higher than turpentine?—A. I really can not recall.

Q. It is considerably more than the rate for coal oil?—A. In most instances it is.

Q. Do you remember a tariff-sheet that went into effect January 23 last?—A. On what?

Q. A general tariff-sheet on freights from Louisville and Cincinnati, we will say, to Atlanta, Knoxville, Chattanooga, and Rome, Ga.?—A. I do not recall the tariff; I have no doubt it was issued.

Q. The question I want to ask you, after calling that to your recollection, is this: Whether on articles other than oil on that tariff the rates from Louisville and Cincinnati are not always the same to Atlanta, no matter whether it comes from Louisville or Cincinnati?—A. To certain points in that tariff, if it be the one including Atlanta, Rome, and so on, the rates from Cincinnati are the same as from Louisville to other points printed in that tariff—the rates from Cincinnati, Ohio.

Q. I am speaking now of the rates from Cincinnati compared with the rates from Louisville to Atlanta?—A. The rates are printed the same.

Q. Why is it, if the rates on other articles are the same, you have made the rate on oil from Cincinnati 56 cents, and from Louisville 39½ cents?—A. Coal oil that is shipped through Cincinnati and through Louisville comes from Parkersburgh or Marietta, or Cleveland, or points in that territory, and the rates from those oil producing regions to Cincinnati are less than Louisville; and in adjusting the oil tariff we aimed to adjust it so that the rates should be the same from the oil producing regions, whether shipped through Louisville or Cincinnati. With other articles

embraced in that tariff to which you refer, it is not the case. The circumstances are different. A great many articles are shipped from Louisville and Cincinnati proper, and a great many articles come from points north of Louisville and Cincinnati, the rates on which are approximately the same, and hence on those articles we make the same rates.

Q. Upon what principle does the man whose oil reached you at Louisville and goes over your road, get his oil at 39 $\frac{1}{2}$ cents, while the man who goes to Cincinnati pays 56 cents, while the fact is that on a great many articles the rates are identical from Louisville to Cincinnati; does not that give the man who shipped from Louisville a great advantage over the man who shipped from Cincinnati?—A. Let me make a statement. The answer I just made had reference to the oil rates as issued March 29, subsequent to the meeting in Louisville. The rates that you are speaking of I see are January 23. The rates on oil from Louisville to points south should be less than from Cincinnati. As to the rates on other articles the circumstances are different.

Q. Why should the rates be less for other articles; why should you give to oil a less rate from Louisville to Atlanta than from Cincinnati to Atlanta? You charge the same on other articles from Louisville to Atlanta that you do from Cincinnati to Atlanta?—A. If we charge the same rate on oil from Louisville as from Cincinnati, a lower rate would be made from Cincinnati than from Louisville, and the route through Louisville would carry no oil.

Q. Do you get any oil now at Louisville to be shipped to Atlanta? Whose oil do you get from Louisville to Atlanta?—A. We get, I suppose, all oil; oil from Cleveland and Pittsburgh. I am not acquainted with all the places. Oil from Marietta is shipped to Louisville, or it has been in the past, as well as to Cincinnati; so that you may say that all oil can come to Louisville as well as Cincinnati.

Q. It can?—A. Yes, sir; I think it can.

Q. If the rate is different from Louisville to Atlanta than it is from Cincinnati to Atlanta, would you permit a Marietta producer to ship his oil to Atlanta by Louisville?—A. Yes, sir.

Q. And get the benefit of that rate?—A. Certainly.

Q. Does that apply also to Knoxville, Chattanooga, and Rome, in case there should be a difference?—A. Yes, sir.

Q. How much more would it cost a shipper in Marietta to get his oil to Louisville than it would cost him to get it to Cincinnati?—A. I can not state positively, but my understanding is that the difference is about 4 cents a hundred pounds to Louisville than to Cincinnati.

Q. Only 4 cents?—A. That is my understanding.

Q. State whether or not Messrs. Chess, Carley & Co., or their successors, the Standard Oil Company, had not means of information through your office as to what rates other people were paying, and as to what shipments other people were making?—A. Not to my knowledge or with my consent.

Q. Did you not have communication with them directly upon that subject?—A. I believe there was a communication received from them.

Q. What was that; to what effect? Have you a copy of that letter?—A. No, sir; to what letter do you refer?

Q. The letter directed by them to you upon the subject of other people's shipments over your lines, the rate of such shipments, and what should be done with them.—A. I have understood that a letter was received from Chess, Carley & Co. in regard to the shipments of Mr. Rice.

Q. What was the effect of it?—A. The effect was calling attention to

the fact that a lower rate had been charged on oil shipped by another party than the rate charged on their shipments.

Q. And do you remember what remedy was sought to be applied?—A. They asked us in effect to have the proper rate charged; to have this incorrect rate withdrawn. That is my understanding; I have never seen the letter.

Q. You have never seen it?—A. No, sir.

Q. I will show you a letter and see if this is not it (handing witness a letter).—A. This is what I have seen published.

Q. I ask you if that is not the original letter of Chess, Carley & Co.?—A. I recognize it as the letter.

Q. Was not that letter received by you?—A. I understand it was received in the office.

Q. Is it not stamped with your office stamp?—A. Yes, sir.

Q. Indicating that it was received in the office?—A. Yes, sir.

Q. What date?—A. June 17, 1881.

Q. What is the date of the letter?—A. June 16, 1881.

Mr. GOWEN. I offer this letter in evidence, which is as follows:

CHESSE, CARLEY & Co.,
Louisville, June 16, 1881.
[L. & N. stamp, June 17.]

J. M. CULP, Esq., G. F. A.:

DEAR SIR: Wilkerson & Co., Nashville, received car of oil Monday, 13th, 70 barrels, which we suspect slipped through on the usual fifth-class rate. In fact, we might say we know it did, paying only 41.50 freight from here, charges 57.40. Please turn another screw.

Yours, truly,

CHESSE, CARLEY & Co.

The WITNESS. I desire to say, with regard to that letter, or rather with regard to the rate charged on the shipment referred to in that letter, that it was less than the proper rate. It was less than any rate that we had with Chess, Carley & Co., or I believe ever have had. It was a fifth-class rate. Our rate on oil from Louisville to Nashville was higher than fifth class, and I presume the desire of Chess, Carley & Co. was to have at least as high a rate as was charged on their shipments charged on this. Had that letter come to me—had I seen the letter—I would have simply understood it that it meant that we should require our agents to charge at least as high a rate as was charged on the shipments of Chess, Carley & Co. Mr. Broaddus, who received this letter, as he informed me, tells me that is the interpretation that he put upon it.

Q. Is the commercial phrase for equalizing rates among railroad people "turn another screw"?—A. I can not say as to that. I do not think it is, and I can not tell why that was used. There was no understanding, agreement, arrangement, or anything else whereby Chess, Carley & Co. could order us to turn on another screw or require us to advance or charge anybody any rate whatever, higher or lower than their rate. The man who wrote this must evidently have been crazy. He afterwards died in the insane asylum.

Q. Who was he?—A. A. B. Hathaway.

Q. Was he a member of the firm?—A. No, sir; he was an employé.

Q. Do you say that at the date of that letter the rate on oil in barrels was higher than fifth class?—A. Yes, sir.

Q. Higher than fifth class?—A. Yes, sir.

Q. Do you not, by your circular of 1886, put oil on the sixth-class rate?—A. This antedated 1886.

Q. Did not the circular which I have shown you make oil in barrels sixth class?—A. That included some points on the Mississippi River.

Q. State whether or not that circular of 1886 did not put oil in barrels in the sixth class.—A. Yes, sir. But Nashville is not on this tariff; and as I explained to you, or attempted to explain, this morning, so little figure did the oil rate cut in this that my belief is that this sixth-class rate, even to this point, was not adopted. That is my impression.

Q. Have you got the tariff that was in force when that letter of Chess, Carley & Co. was written? Have you got it with you?—A. No, sir.

Q. You had a tariff here just now.—A. That is a tariff that was issued March 29.

Q. Will you send us the tariff sheet of your company that was in force at the time that letter of Chess, Carley & Co. was written?—A. I have no objection to doing so, but I will ask the counsel.

Q. Will you agree to do that?—A. Yes, sir.

Q. And send it to the chairman of this committee when you get home, as soon as you can do it?—Yes, sir.

LOUISVILLE AND NASHVILLE RAILROAD CO.,
OFFICE GENERAL FREIGHT AGENT.

Rates of transportation (classification herewith) taking effect January 19, 1881, and in force June 16, 1881.

[Coal oil in car-loads of 64 barrels.]

From Louisville, Ky., to—	Road.	Per barrel.
Nashville, Tenn.....	L. & N.....	\$0.90
Clarksville, Tenn.....	L. & N.....	.75
Memphis, Tenn.....	L. & N.....	1.00
Mobile, Ala.....	L. & N.....	2.00
New Orleans, La.....	L. & N.....	2.00
Pensacola, Fla.....	L. & N.....	2.00
Vicksburg, Miss., via Birmingham.....	L. & N.....	1.15
	A. G. S.....	.444
	V. & M.....	.408
Total.....		2.00
New Orleans via Milan, Tenn.....	L. & N.....	.758
	C. N. O.....	1.242
Total.....		2.00
Vicksburg, Miss., via Milan, Tenn.....	L. & N.....	.908
	C. N. O.....	.897
	V. & M.....	.20
Total.....		2.00

J. M. CULP,
General Freight Agent.

[John M. Culp, General Freight Agent. H. F. Smith, Assistant General Freight Agent.]

LOUISVILLE & NASHVILLE RAILROAD COMPANY,
OFFICE GENERAL FREIGHT AGENT,
Louisville, Ky., May 4, 1881.

GEO. RICE, Esq.,
Marietta, Ohio :

DEAR SIR: Coal oil, Fayetteville and Dechard, Tenn. Yours 2d. The rate Louisville and Nashville Depot to points named on coal oil in car-loads are: To Nashville, 90 cents per barrel; Nashville to Fayetteville, 40 cents per 100 pounds; Nashville to Dechard, 27 cents per 100 pounds.

Through rate made by adding the rates from Nashville to our tariff rates to Nashville.

Yours, truly,

J. M. CULP,
General Freight Agent.

TESTIMONY OF F. B. CARLEY.

F. B. CARLEY, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Tuxedo Park, near New York.

Q. Were you a member of the firm of Chess, Carley & Co.?—A. Yes, sir.

Q. At what time?—A. Through its whole history.

Q. Over what years does that extend?—A. I do not remember exactly, but I think somewhere about 1869 or 1870 we formed that firm.

Q. When did you terminate it?—A. When we formed the Chess-Carley Company.

Q. When was that?—A. Four or five years ago. I was president of it until its dissolution.

Q. State whether or not it was dissolved when it sold its property to the Standard Oil Company.—A. Yes, sir.

Q. Are you connected with the Standard Oil Company?—A. No, sir.

Q. You occupy no position under it?—A. No, sir.

Q. Where did you reside during the time you were a member of the firm of Chess, Carley & Co. and the Chess-Carley Company?—A. Louisville, Ky.

Q. Had you charge of that business?—A. Yes, sir; I was sole and exclusive manager of the Chess, Carley & Co. and of the Chess-Carley Company.

Q. State what arrangement you had with the Louisville and Nashville road for freight on oil over that road.—A. I would like the committee, in answering that question, to let me fully state the entire history of my relations to the Southern railroads in that capacity, in order that they may see both sides of the question. Am I at liberty to put it that way?

The CHAIRMAN. You may go on.

The WITNESS. About fifteen years ago I conceived the idea that a large business that had never gone through Louisville, and could not go without some special movement of transportation or system of transportation, might be secured; and to that end I opened negotiations with Albert Fink and Milton H. Smith, the vice-president and general traffic manager of the Louisville and Nashville Railroad, stating to them that on account of the competition in transporting by schooners from New York, Philadelphia, and Baltimore to the Southern points, Charleston, Savannah, Brunswick, and Jacksonville, that none of the oil business, which you remember originates at the point you have named and was produced almost altogether in western Pennsylvania, could never come by rail and they could never get it without some system being established of return freights. On the other hand, the turpentine which I conceived the idea of using as a return freight was produced and is produced on the Atlantic coast, near Charleston, near Savannah, near Brunswick, and near Mobile. They concluded to send me South to look the matter up, and that was my first pass and one of the few that I ever rode on, one out of a few I ever used. I went down and made up my mind that we might have to lose money on the oil for two or three or four years, but that the question of leakage in the South and the question of leakage on the turpentine, and the extreme low cost of second-hand packages in Charleston and Savannah would furnish a margin that would enable us to supply Chicago and the Northwest with turpentine and still hold a rail route on oil to these points.

On agreement with them I had made a few tanks. Those tanks held from 3,300 and something to 3,600 gallons. Mr. Albert Fink had them weighed and they weighed about 7 to 12 per cent. more than 20,000 pounds; but it was a freight both ways that they could not get without some such system. They agreed to call it a straight average of 20,000 pounds per car, and the business commenced. We made money in a general way in that business, although sometimes for five years in succession we lost money steadily on the oil branch of that business in some of the Southern markets; but we succeeded in getting most of the turpentine business of the entire Northwest as the years went on. A large portion of turpentine is produced in the neighborhood of Mobile which had been going to New Orleans, and there was handled by commission merchants and shipped by river and at great loss of leakage.

I then said to the officers of the road named, "If we put these tanks into New Orleans and you will bring them back empty as far as Mobile, we can take that Mobile turpentine into the Northwest over the line of your road, comparatively none of which you are getting now." They said, "Go ahead." I went down and called a convention of the turpentine manufacturers, and before I left the room the second day had made a contract to buy the entire crop. We therefore had the exclusive handling except a very slight percentage against us of the return freight from Mobile north, and we made money on the turpentine most of the time.

Up to this time all the railroads in the South were 5-foot gauge, as I remember it, while in the North they were the standard gauge. Therefore, in all the oil freight problems north of the river Chess, Carley & Co., and the Chess-Carley Company had very little to do, and up to this time until the Illinois Central obtained control of the New Orleans and Jackson Railroad there was nothing special to change this general arrangement. When they bought the New Orleans and Jackson Railroad they then put on in favor of our competitors a rate from Cleveland via Chicago to New Orleans, which was much lower than the rate that we had been paying on our turpentine and on our oil. I believe I forgot to state that the rate fixed by all the Southern roads—when we undertook that we connected with the Louisville and Nashville, as I remember it—was a cent a ton a mile. Any way the rate was considered low in the South compared with rates charged by other roads in the South at that time, but was not low, probably, for a Northern road with a great deal of business. These Chicago shipments, therefore, went into very severe slaughterous competition with our policy of south-bound oil and return loads of turpentine, and I presume that competition on the part of the Illinois Central cost our concerns \$40,000 one way or another in losses. The principal reason that we were hurt by that competition was that it led into the South the larger tank cars, not only a lower rate being given than our rate, but a great deal larger quantity going at that rate.

Q. At the same fixed rate?—A. At the same fixed rate. To save ourselves from that competition I commenced running over that line. Soon the Cincinnati Southern began to get into the South at different points, and that road had a narrow gauge, and so from one step to another the capacity of the tank cars getting into the South was so modified that we, step by step, in making new cars, made them larger, still holding wherever we could the Southern roads to the rate of 20,000 pounds, which we could not always do. Very generally, and some roads always, weighed those cars—the Mobile and Ohio. I do not know that I could exactly name the roads, but we held for a long time, though,

that 20,000 pound rate on tanks after they had run up to 27,000 or 28,000 pounds. Now, here is a point I wish the committee to very thoroughly understand, because as I understand it you want to know the meaning of this relation between the Chess-Carley Company and the Southern railroads, what effect it had on other shippers and on the people of the South and on the merchants of the South. Now, I wish to say up to this point—

Q. At what time is this that you are speaking of?—A. I am not speaking in calendar time, but up to the first ten years of this business no shipper, no outside refiner was prejudiced to the amount of a single nickel, because there was no outside refiner that could have put oil at any sacrifice that he chose to make temporarily into Charleston, Savannah, and such points by rail unless he had brought back the turpentine and had developed a business of the same kind which would require him to establish tanks in northern cities and make various expenditures. But meanwhile all this time the low rate we obtained gave to the Southern people a cheaper oil than they otherwise could have had, because we drove out the shipments in the schooners from Baltimore and Washington, and we stopped almost the shipments by river down the Mississippi River by boat. I think that the Chess-Carley Company furnishing oil to the South gave the Southern people a lower price for oil than they could have had without this plan. Now, that did not always go to consumers entirely, but was generally divided between the consumer and the Southern jobber. Now, all the turpentine manufacturers in the South received a great deal more for that product because of our existence. That gave new markets, and we took the turpentine that would otherwise have gone for exports and pulled it through Louisville by this co-operative scheme into the Western markets, at better prices to the manufacturers than they would have received in the South for it.

Now, as I am proposing to tell everything I remember about this thing and be full about it, I will take up the subject of barreled oil a moment. Let me say first that I do not think the Chess-Carley Company, or the Chess, Carley and Company, and I mean both when hereafter I will speak of myself—I do not think we ever received rebates on tank oil, except in one instance, which I will relate later on. The policy was to make out a through billing, and the Southern roads conformed to it, and the advantage we had later was in the rate. Now in barreled oil I can remember of two instances, and in naval stores one, where I think we had what would seem at first thought a decided advantage of outsiders. We found when we took this oil to Charleston, Savannah, and Mobile that on account of the cheap packages we could barrel it there and send it back into the interior. Therefore it was not our interest to have the rate on oil in barrels put down from any point in the North. We never sought to have it put down. Whenever we found others were getting a lower rate than we, we would simply ask that all our rates on barreled oil be reduced, and the roads would answer that they could not afford that. We would say you are charging others less than you charge us. I remember of two cases, important because memorable, and because the markets were large, where I think—I know—we received rebates, the exact amounts I will not be able to tell you. Refineries situated as the one which has been mentioned here, Mr. Rice, and which were competitors of our interest, were located on the river generally, and at a certain season of the year, when the river was in good condition, they could get a very low rate. For instance, to Memphis I have known them to ship for 50 and 60 cents a barrel generally,

Now, the rate that it cost us to get our oils from the primary market to Memphis I doubt if it ever went under a dollar. I never knew of it.

Q. You mean barreled oil?—A. Yes, sir; I am speaking now of barreled oil. I conceived the idea that probably by undertaking with the Louisville and Nashville Railroad that they should have all the oil that was used at Memphis, that we could get a nominal advantage of their tariff. Last year, I said, Memphis used, we will say, 10,000 barrels of oil. Now if you will help us to increase the trade of Memphis up and down the river where you otherwise could not reach the trade, and will give the Memphis merchants an advantage of the tariff that stands all the year around, we will make an agreement with them to hold the business the whole year round on the line of the road, and when the water rate comes in and we are losing money on the shipments we will take what we make when the river is frozen up and rates are high on the river and we will equalize it, and we will keep the business the year round on the railroad, and they agreed to that. I called the Memphis merchants up to Louisville and we all made an agreement by which the Memphis merchants were to get this amount that the road would pay us. A part of the time we paid that amount direct to the merchants, and part of the time we fixed it in the price. But it was all understood by the merchants, and even when the river shipments came in and the price of oil went down at Memphis we would reduce our prices below the agreement and try to wipe out this river competition, and we pretty well succeeded in doing it. That grew into a rebate to Memphis. It was in the shape of rebate, because we claimed that unless the shipper sent his oil all the year round over the road he must not have the same rate. I never asked the Louisville and Nashville or any other railroad officers in my life to give us a rate conditioned on the agreement that, if any other shipper would come and do the same business in the same way, that he should not have the same rate. I know I have been asked just informally by railroad men once or twice as to what answer they should make. They said here is a man, Rice, for instance, writing us that you are getting a lower rate. I said if he comes here and makes his shipment all the year round on your road as against the river, you will do for him what you will do for anyone else. Now we had a similar arrangement as that at Nashville. As far as I remember those are the only circumstances in which we received what you call a rebate on barreled oil.

Now there is one case I want to tell, because I want the committee to feel convinced that I have told the whole thing about this business. I have retired from it and I do not want anybody to think that having spent the whole years of my life in it I have anything to conceal. At Mobile there was a great deal of turpentine and rosin produced on the Louisville and Nashville Railroad, only a little distance out of Mobile upon the line of the railroad. If it went into Mobile it would go over to New Orleans and go up the river, the shipment of rosin especially. Whereas if it were shipped on this point on the line of the road, it would come the whole length of the Louisville and Nashville to Cincinnati or Louisville. I made an agreement with them at one time that we would so bid up the prices for rosin and turpentine at Mobile, that if they would fix it we would drive off the schooners by that price and the New Orleans shipments. That if we did it, as soon as we had done it they must not drop the rate to people whom we had driven off in that direction and give them the same advantage over the road, the same tariff rate. We agreed that if we did not succeed at it we would pay them the loss. I think one year we paid them—I do not remember the

amount—because we could not do it; it was impracticable. But generally, two or three years, as long as it run, we succeeded in keeping the schooners from getting that profit.

By the way, I wish to say that as soon as the other railroads got to working in the South, we immediately opened our business at Covington, practically Cincinnati, and at Cairo, so as to stand neutral between the different roads, and we undertook to continue, by combining all the roads in this co-operation with us, the same general business we had been conducting, and generally they conformed to the business because they thought and believed they could not get it without, although generally the Illinois Central did not do that. I would like to say about that letter—poor Hathaway, he is gone now. He was our stenographer in our office in Louisville; I never saw the letter in my life; I do not want to state the conclusions, but I want to state the fact in this way, which is the fact. We always paid cheerfully the rate on barreled oil, because it protected our tanks. We shipped a great deal of oil in barrels; I suppose that we shipped ten times as much as all other outside refineries together in barreled oil without reference to tanks, and I never—in two or three instances I think we did get lower rates because of some peculiar circumstances which arose from time to time between the clerks and the office, but in the spirit of the business between myself and the head offices of that road, it was never the policy for me to request a modification of the barreled rate. The initial road on general business, as you have suggested several times, makes the rate; but the Louisville and Nashville, even before I had commenced working with them, and in all of Milton H. Smith's connections with the road, his idea always was to make oil arbitrary and put an arbitrary rate on it. He charged first-class for a single barrel, thinking that it spoiled the car and made it unfit for other goods, and because it made considerable loss in its leakage. In early times the packages were not made so well, and leakage was great in hot southern countries. He said it was entitled to a higher rate. That helped our business in distributing to the Southern stations. It was our interest that it should remain higher than on oil in tanks, but when an initial road would take oil through at a rate lower than the regular rate it would put us to a disadvantage.

This much I know about this letter that Hathaway wrote. He would say to me, Mr. Carley, there is another car-load gone through to Wilkerson, or to whoever it might be. I said, I do not think it is right on the part of the road. Can not you get them to stop it? I mentioned it to them before. They said it was the fault of the clerk; that it was clerical. I used to complain to Hathaway, and, as he had been in the office and was very familiar with them, he personally writes this letter to ask them to tighten the machinery of their office up there, using this unfortunate expression which has been thrust in my face for several years. [Laughter.] Now, I am just as certain, without having the actual figures before me, that we were paying higher than this as any fact I have ever stated in my life. Otherwise there would be no meaning in the letter. Otherwise it would have been absurd to have asked them to tighten up the machinery of their loose office.

Q. That is not the expression?—A. I know the object was to so hold his clerks up to their duties that they would not let a car-load go through without changing the billing from this arbitrary rate. Now I think I have said all I have to say.

Q. You have given your explanation before you have answered the questions. Your business was largely in shipping tank oil to the South, was it not?—A. Yes, sir.

Q. Did anybody else at that time but you have tanks on that road?—A. Most of the time they would not, but quite often they would break out on us. For instance, a man by the name of Pettit got on some tanks at New Orleans.

Q. To what extent did you turn the screw on that occasion?—A. I dropped the price on him pretty lively. [Laughter.] I want to say, as far as competing is concerned, the Standard Oil Company never had a competitor who cut the price greater than I did to drive out anybody who got in the way.

Q. Did you not for a long period of years have a rate on the tank-cars of 20,000 pounds in the car, irrespective of the oil in the car?—A. Yes, sir.

Q. Down to what period of time did that exist?—A. To state the exact time would be difficult for me.

Q. Mr. Culp or Mr. Broadbuss said it extended down to about the past year.—A. I think he was wrong. I think it was mostly obtained about the time I went out of business. I retired from the business eighteen or twenty months ago.

Q. You can only speak with reference to your own knowledge upon the subject?—A. Yes, sir.

Q. Your business was largely successful by reason of the fact that in shipping oil to Southern places in tank-cars you could take advantage of the low price of second-class barrels in those places?—A. Yes, sir; it was a very important interest.

Q. To barrel the oil there and then ship it local through the district in barrels?—A. Yes, sir.

Q. In consequence of that class of business which practically nobody but yourself at that time was engaged in or could engage in?—A. No; that is not practically right.

Q. But not over the Louisville and Nashville road?—A. No.

Q. It was to your interest to maintain as large a rate on oil as possible?—A. Yes, sir.

Q. And you were quite willing to pay on your own barrels the highest rate, because you had a margin on your own barreling business?—A. Yes, sir.

Q. Now, how much lower per barrel of oil transported did you get your transportation over the Louisville and Nashville road when you shipped in tank than other people did in barrels?—A. The general classification of oil was fifth class in barrels and sixth class in tanks. I think that is the classification. Now we have just as much advantage in that difference to those particular points I speak of, like Charleston and Savannah, as the 20,000-pound rate would figure out.

Q. In addition to the difference in classification?—A. Yes, sir; that is, to those points. But as far as competition with other refiners is concerned, that was distinctly to points where other refiners could not ship at all, nor could we.

Q. Why could you not?—A. Because we could not stand the rate. Oil can not go from Pittsburgh to Louisville and by rail to Charleston against the rate of 50 cents a barrel from Baltimore.

Q. But you shipped it from your district to Charleston over the Louisville and Nashville Railroad?—A. Yes; but then our margin was in the package that we found in Charleston cheap, and in the fact that we took a return load of turpentine on which we made some commercial margin, and it was by grouping the margins together. Sometimes we worked our oil business at a loss, but we could get an average profit out of it.

Q. And you made a successful business out of it?—A. The average. But I say no outside oil refinery could have possibly done that business.

Q. Do you mean to say that the firm of Chess, Carley & Co.—A. I mean to say no outside refinery could have put that oil down there as a freight without reference to other articles.

Q. If the railroad company had given to somebody else, a competitor of yours, exactly the same rate that they gave you on tank-cars, and billed it through at 20,000 pounds, irrespective of the weight, if those other men were of equal intelligence with yourself, they could have transacted the same kind of business?—A. If they had taken back the return load the weight would have worked out as very often it did. They would have suffered a loss on their oil if they did not take back the turpentine. Then we would have tried to make up on the turpentine what we lost on oil.

Q. They could have done that too?—A. Yes; it would have been a duel, that was all.

Q. Do you know of any reason, legal or moral, why the Louisville and Nashville Railroad should select Chess, Carley & Co. as the sole people in the United States?—A. No, sir; I think they did because we were at the front. We had our tanks loaded through at the front, and accomplished our work without waiting for anybody else. We are talking about a branch of the business that was originated by myself. This whole business—the transportation of oil in tanks, the running of cars in the streets, bringing back turpentine as a return load—put me ahead of all other shippers in this regard.

Q. Don't you know that your rate per barrel, when oil was sent in tanks, making allowance for the billing of 20,000 pounds to the tank, was one-third of the rate that barreled oil was charged for?—A. It was a class of business that no other refiner ever undertook to do. No shipper ever offered freight from Pittsburgh to Savannah to amount to anything.

Q. You did not ship all of your business into this competitive district?—A. I am speaking of that class of business now on the 20,000 pounds. It was put on simply for that kind of business.

Q. Did you not get a rate of 20,000 pounds on other business? Did not they carry for many years, or for a long time, all your tank oil at a billing of 20,000 pounds, no matter where it went to?—A. Now let me be clear. I could myself say we never did, and yet I can not say it entirely for this reason. It was all that same class of business. After some years we were furnishing enough empty tank-cars from oil used in Charleston and Savannah to bring back as much turpentine as we could sell. We paid them to take the empty cars down to the coast—so much per ton, \$10 or \$15, I think—and then it would come back as if we had sent it subject to that point. So that really the whole tank business, in its conception and as carried on, where the rate was wrong, as you might call it, was a class of business that an outside party, unless he did what we did, could not do this business.

Q. If an outside party had the same rates that you had, and were men of equal intelligence, they could have done what you did?—A. I don't think anybody would have failed to get those rates who would have asked Albert Fink or Milton H. Smith.

Q. Did anybody else get them?—A. Yes, sir; occasionally. The firm of William Washburn & Son shipped into Nashville, but not less than two or three years. They had just as good rates. It was a question of commercial competition. That man Gabriel, of Columbus, Ga., and C. B. Pettit, at New Orleans, had oil. In those cases it got down to commercial competition, but they did not have the turpentine as a return load, and of course we had the advantage. They could not buy

turpentine. As far as the Atlantic coast was concerned, we never controlled that.

Q. I am directing your mind to local lines, and to sea-ports in the United States reached by schooners. Did you not have special rates from the Louisville and Nashville on tank cars to those points over other competitors?—A. I think so. That is to say, I think during the last two or three or four years, when the other roads competed with the Louisville and Nashville very much, that in some instances they allowed us to go with tank oil where they did not expect to get the return load. I forgot to say that was a part of my original agreement and was kept up all the time with these Southern roads, that we would fill all the tanks back within a very slight percentage. It was a return contract and it only allowed us a small margin. I think it was 8 or 10 per cent. of empty tanks to come back. The last three or four years we run bulk cars to Chattanooga. I think the proper way to answer that question is to say that in some cases we did, but it was not the general policy of the business.

Q. During the last two or three years of your company in this business, could anybody else get tank cars over the Louisville and Nashville Railroad?—A. A tank costs about \$225. That is only the cost of the tank. I think if a man had come into that office and said "I have bought two or three tanks and want to put them on your car," I think they would have given him the right.

Q. Don't you know attempts were made to do that unsuccessfully among your competitors?—A. If it is not strictly improper to say so, I do not think an honest, proper attempt was made. I think it was made by the competing lines of the Louisville and Nashville. I don't think anybody intended to do a business with them, because they would do it through competing lines and would stand a better chance.

Q. You put tanks upon some of their cars?—A. Yes, sir.

Q. What arrangements did you make for that?—A. None at all. Simply that we would fill them South and bring them back with turpentine.

Q. They gave you their trucks?—A. Yes sir.

Q. You furnished the tanks?—A. Yes, sir.

Q. Did you get a margin for that?—A. No, sir.

Q. Were you not enabled by your arrangement with the railroad company, practically, if you chose, to wipe out and destroy all competition with you in your oil?—A. It would have very much less to do with it than you would think. I will tell you just how I compete. For instance, I would go to New Orleans and Memphis and get the jobbers, instead of competing on oil and making that their leading article, to make their fight on sugar, or lard, or anything they chose, and get them to stand neutral on oil, and I would get a chance to drive them off by so doing.

Q. Have you not frequently, as a shipper of oil, taken part in the competition with grocers and others in other business than oil in order to force them to buy oil?—A. Almost invariably; I did that always.

Q. Will you look at these circulars and letters and say whether they were from your establishment?—A. Anything that means that I would drop the price on my competitor and have it out with him is true, without reading the letters.

Q. Just examine those letters and see if they are not the originals [handing witness letters].—A. Yes, sir; I think I wrote that letter. I do not think I was justified in that position, although he was a very mean fellow. [Laughter.] Let me say now about this whole class of

merchants in the South, that 99.9 per cent. of all the first-class merchants in the South were in close sympathetical co-operation with us in our whole history. I doubt if that is an exaggeration. In other words, where there was any slip, it was some man who wanted to blackmail us and I would sometimes write those bluffing letters; but it was invariably somebody who asked us to do something not commercial is the reason I wrote them in that way. These letters were written by me.

By Mr. CROUSE:

Q. What is the date of those letters?—A. 1880. That man wanted us to pay him more than we paid the other jobbers, because he thought we had the market sustained and he could blackmail us into it. I bluffed him in language, and language was cheap. [Laughter.]

By Mr. GOWEN:

Q. You issued a circular you called a license to people to sell the oil, guarantying them a profit?—A. That was on trade-mark oil.

Q. Where was that oil manufactured?—A. Part of the time in Louisville, and afterwards made at Cleveland.

Q. Did you have a refining establishment at Louisville?—A. A small one.

Q. What was its capacity?—A. There is hardly a word to be applied to it. It was built originally to refine the small quantity of oil that was produced in Kentucky; there was a small amount.

Q. Am I to understand that your business in oils at the South at the period of which you are speaking, was the business of a merchant rather than of a manufacturer of oil?—A. Yes, sir.

Q. Where did you buy your supplies?—A. Ninety-five per cent. was furnished by the Standard Oil Company or some of its branches.

Q. Did you have a particular district of the United States in which you had the sole right to place your oils?—A. They used to say I wanted the whole territory.

Q. What territory had you?—A. I did manage for a while the business from Charleston, S. C., to Denver, including Texas, and Saint Louis, and then afterwards I had more than I could handle. I agreed with them to confine my operations from the Mississippi River to the Atlantic Ocean in the South.

Q. How far north?—A. Not north of Louisville.

Q. You had practically, so far as the Standard Oil Company were concerned in their arrangement with you, the exclusive control of that territory as the distributing medium?—A. Yes, sir.

Q. Did you sell as a merchant or as a factor?—A. As a merchant.

Q. You never sold on commission?—A. No, sir.

Q. Whatever rates you made with the railroad were entirely in your behalf?—A. Entirely so.

Q. Did they ever share in any reduction of rates or was that question determined by the price at which you paid them for their oil? When the price was established did that price depend in any manner upon the rate you were to get from the railroad?—A. No, sir.

Q. You fixed a price for that, and you became the merchant and owner of the oil?—A. Yes, sir.

Q. You were active and made a great many efforts to enlarge your business and drive other people out of competition. Was it not a point of your business character that you would drive out competition?—A. I was very fortunate in competing; but I want to say that it was not by the direction of the Standard Oil Company or at their request. It was

simply my way of doing business. I thought it was cheaper in the long run to make the price cheap and to be done with it, than to fritter away the time with a competitor in a little competition. I put the price down to the bone. (Laughter.)

Q. You put it down so as to kill him outright?—A. I did not look to him. I want to say that so far as the Southern merchant is concerned I never made a trade with him that did not bring him money.

Q. Now, tell this committee whether the man who has secured a certain rate over the railroad does not have an advantage which his competitor does not possess?—A. Yes, sir; decidedly.

Q. The fact that you were known as the favorites of the railroad company gave you a position in that community that no other person could attain?—A. It did in some localities; in others it did not.

Q. On your identical road?—A. Yes, sir.

Q. Now state whether you had not in your employ the State inspector of oils and gave him a salary?—A. Yes, sir.

Q. He was a public officer who inspected oil for everybody?—A. The way that arose was this: The amount of oil that was used in Kentucky was very limited, whereas the amount of oil that went through the South was generally twenty times as much. When I used the word "salary," I think it is hardly a proper term. I want to recall that. We did this—we agreed to pay him the regular fee for the oil that he inspected for us inside of the State, and then we allowed him a small sum, \$50 a month or less, for all the inspection of oil that went outside of the State, with which he had nothing to do.

Q. Was he required to inspect the oil that went outside of the State?—A. This arrangement was a compromise. He claimed he had a right and I claimed he had no right. I said, we have to inspect it any way and are paying a man to do it. If you will inspect it for us and keep the record, I will pay you a fair amount. I am not going to have all this oil inspected.

Q. Did he put his inspection mark or stamp upon the oil that went outside of the State?—A. Yes, sir.

Q. Did his inspection mark, which was put on in the State of Kentucky, relieve you from an inspection by the State of Tennessee or Georgia?—A. No; but very many of the States had no inspection laws. Some of them had.

Q. Are there not laws in nearly all the Southern States requiring a certain refining test?—A. Yes, sir; it has grown up within a few years. This was done before they had laws.

Q. Up to what time did you pay him?—A. I expect it has been five or six years.

Q. Did he furnish you his stamp so that you or your agent could put them on the barrels?—A. No, sir; he went up to the refinery and either himself or his deputy would brand these barrels and receive so much money per month. It was outside of his official duties.

Q. Have you any objection to telling us when you sold to the Standard Oil Company what sum of money you got?—A. I would rather not say. I will answer any question bearing on the business. I do not think that would be a pleasant thing to say.

Q. Did you receive Standard Oil Trust certificates?—A. No; I bought some of them. I never had any Standard Oil Trust certificates in my life, through my whole business. I always declined to buy them. I wanted to be independent. After I retired from the business I bought some of them. I thought they would go higher.

Mr. GOWEN. I will offer in evidence these letters, which are as follows:

[Ches. Carley & Co., producers and refiners of petroleum, dealers in naval stores, corner Fourth avenue and Main street.]

LOUISVILLE, KY., December 10, 1880.

GENTLEMEN: We regret to learn from our Mr. Fitch of the refusal on your part to make such arrangements as the market will permit, because it is with great reluctance that we undertake serious competition with any one. *And certainly this competition will not be confined to coal oil or any one article, and will not be limited to any one year.* We always stand ready to make reasonable arrangements with any one who chooses to appear in our line of business. And it will be unlike anything we have done heretofore if we permit any one to force us into an arrangement which is not reasonable. Any loss, however great, is better to us than a record of this kind. Hoping you may think best to prevent this great common loss to all concerned we remain, with respect,

Yours, truly,

CHESS, CARLEY & Co.

Messrs. WILKERSON & Co.,
Nashville, Tenn.

LOUISVILLE, KY., December 14, 1880.

GENTLEMEN: We reply to your letter of the 13th merely to make clear one idea which you seemed to have overlooked in your reasoning. The only reason why you could make \$200 or any part of it a month is because we so hold the market that there is such a margin in it. *The expense and influence necessary for sustaining the market in this manner are altogether expended by us, and not by the representatives of outside oil. If you continue to bring on the oil it will simply force us to let down our price, and no other course is left us but the one we have intimated. Another serious question is the great fact that if we allow any one to operate in this manner in any one of our localities it simply starts off others. And whatever trouble or expense it has given us in the past to prevent it, we have found it to be and still believe it to be the only policy to pursue. We have no ill-feeling toward any one in any line of business, but simply claim the right when one competes with us in our line of trade to return the competition in all departments of interest to our competitor. You may be very certain that you will make much more money, if that is what you care for, by co-operation with us.*

Yours, truly,

CHESS, CARLEY & Co.

Messrs. A. C. WILKERSON & Co.,
No. 57 South Market street, Nashville, Tenn.

NASHVILLE, TENN., December 17, 1880

To the jobbing trade:

We regret to notice the disposition on the part of a few jobbing houses in coal oil to antagonize the different interests in this line by encouraging the efforts of street brokers to place oil on the market, as such encouragement will only result in the loss of margins to the entire jobbing trade. Street brokers are not legitimate dealers and only unsettle the market and get a profit which properly belongs to the trade.

We are disposed to make this business, which comes by necessity to the jobbers, profitable to them by establishing a uniform price and system of rebates; *this we can only do by the co-operation of all jobbers; otherwise we will be compelled to make one price to all, which prevents the jobber making a margin to which he is justly entitled for his risk and trouble.*

We trust you will find our interests in this line identical and material.

Very respectfully,

CHESS, CARLEY & Co.

KINSLOW KEROSENE LICENSE.

License is hereby granted ———, of ———, to sell kinslow kerosene, conditioned upon the following agreement, viz: The said ——— is to maintain at all times a stipulated retail price (not less than 25 cents per gallon at the present time), to be regulated in future by Ches Car-

ley & Co., as the market changes demand; that no adulteration of this oil is to be permitted, or any other oil allowed to be sold under this brand; and that the said ——— will not buy or sell any other oil exceeding 130 degrees fire test while this license is in force. Chess, Carley & Co. guaranty a margin of 5 cents per gallon on this oil, and are to furnish suitable circulars and do such advertising as they deem advisable to make this oil favorably known. If at any time a discontinuance of this license be desired by either party, a written notice of thirty days is to be given, and in case of any violation of this agreement on the part of the said ——— Chess, Carley & Co. reserve the right to publicly revoke this license.

(Signed)

CHESS, CARLEY & Co.,
Per OWEN STEWART.

(Signed)

Mr. CROUSE. In justice to the witness, who has been very frank, indeed, in telling us how he developed his business, those should go in just as he requested.

Mr. GOWEN. They will be put in.

Mr. BYNUM. This testimony goes altogether.

The WITNESS. I would like to have it, if agreeable, added there that the witness says it is not a business-like letter, because it was used when the parties tried to blackmail him.

TESTIMONY OF HOWARD PAGE.

HOWARD PAGE, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Louisville, Ky.

Q. What is your business?—A. I am connected with the Standard Oil Company of Kentucky.

Q. How long have you been connected with it?—A. Since the Standard Oil Company was formed.

Q. How many years?—A. I have been connected with the Standard Oil Company, Chess Carley & Co., and the Chess-Carley Company ever since 1878.

Q. What department have you charge of?—A. Freight department and naval-stores department.

Q. How long have you had charge of the freight department?—A. I have been connected with it for about five years.

Q. Have you charge of the question of making rates or securing rates over railroads for the shipment of oil?—A. I have not charge of making the rates. I have charge of seeing about the rates on which we ship oil.

Q. You are the representative of your company in dealing with the railroad company?—A. Generally; yes, sir.

Q. Can you tell us what, up to the time of the passage of the interstate commerce bill, your rates on oil going south were over the Louisville and Nashville road per tank-car?—A. Different to different points.

Q. Can you give us a list of them?—A. I can not.

Q. You were asked to bring a list?—A. Yes, sir; that in connection with a great many other things.

Q. Did you bring that list?—A. No, sir.

Q. Why not?—A. I did not have any time to prepare such a statement, and besides the books and papers which you called for are not in

my charge at all. I am not an officer of the company and could not bring any of those papers.

Q. And were you not asked to bring a memorandum or statement of the different rates? You knew the rates you were paying to the other men?—A. Yes, sir; I know what they are now and what we paid in the past.

Q. Why did you not bring that?—A. To get that up for ten years, which you asked for, would take more than ten days.

Q. You were asked also to produce it within the last two or three years with reference to rebates and allowances.—A. I believe there was a call for it.

Q. Why did you not bring that?—A. Because, as I have said, I have no papers or books in my charge. I could not bring them.

Q. You knew what those rates were and you knew you were called here to testify upon that subject, were you not?—A. I knew I was called upon. I was subpoenaed.

Q. You knew from the nature of the notice given you upon what subjects you were to be examined?—A. Yes, sir.

Q. Have you made any efforts to familiarize yourself with those rates in order to testify here?—A. I think I can testify to some of the rates.

Q. Prior to the passage of the interstate commerce act can you tell us what the rates were?

The CHAIRMAN. State those you remember. It is not necessary to have a local rate.

Mr. GOWEN. Whatever rates you can give us.

The WITNESS. I do not believe I could say with certainty what the rates were prior to the interstate commerce act.

Q. What have they been within the last year?—A. Published rates?

Q. Yes. Have you received rebates of any kind?—A. No, sir.

Q. Or any allowance since the passage of the interstate commerce act?—A. No, sir.

Q. At what rate per tank-car is the car carried?—A. I think Mr. Carley forgot that in his testimony. The rates were on tank-cars without any regard to the weight or capacity.

Q. What has been that rate within the past year?—A. The rate from Louisville to Atlanta was \$61.80, for instance.

Q. Per tank-car?—A. Yes, sir.

Q. From Louisville to other points?—A. From Louisville to Mobile, \$60 per tank-car; Louisville to Nashville, I think, was \$30 or \$35 per tank-car; to Montgomery and Selma it was \$60 per tank-car.

Q. Have you any rate to Atlanta?—A. Sixty-one dollars and eighty cents; I just stated it.

Q. Can you give us any other rates?—A. Louisville to Montgomery, \$60 per tank-car; Louisville to Memphis, \$25 per tank-car; Louisville to Vicksburg, \$60, if I remember correctly. I think they were about the rates.

Q. State whether or not that was a uniform rate per tank-car, irrespective of the contents.—A. Entirely irrespective of the capacity in gallons or the weight. The rate was given per-tank car in oil just as it was given on livestock, so much per car-load; often as given on dry goods, so much per load, irrespective of what was loaded in it.

Q. The capacity of the tank-car varies from seventy-five to one hundred?—A. The capacity of some tanks varies that much; but the tanks we shipped in principally were tanks owned by the Standard Oil Company of Kentucky, on the Louisville and Nashville trucks. They average from 2,700 to 4,200 gallons.

Q. That was a very limited number of cars?—A. No, sir; it was by far the greatest majority that was shipped in the South.

Q. How many?—A. About fifty Louisville and Nashville and Cincinnati Southern. Those tanks were employed always whenever there was a sufficient number of them to do it.

Q. What amount of oil did you handle in a year; say last year?—A. I do not remember exactly.

Q. Can not you state it in round numbers?—A. We handled probably altogether between 200,000 and 300,000 barrels of oil.

Q. Did you not handle more than that?—A. I think not.

Q. That amount of traffic was not done over such a great extent of territory by those few cars?—A. Those shipments, or a great many of them, were made in barrels, and a great many by schooner, and the majority of our shipments of that 200,000 or 300,000 barrels was in barrels, not in tanks.

Q. What was your rate in barrels during last year?—A. To what point?

Q. From Louisville to the same points you have named?—A. From Louisville to Atlanta was $39\frac{3}{4}$ cents per hundred pounds; Louisville to Nashville, $18\frac{3}{4}$ cents per hundred pounds; Louisville to Memphis, $12\frac{1}{2}$ cents per hundred pounds, about that; Louisville to Selma, Montgomery, and Birmingham, about 47 cents, and the majority of our shipments to all those points were in barrels.

Q. Did you receive any rebate on your barrel shipments?—A. None at all since the passage of the interstate commerce bill.

Q. Now state whether prior to it you received rebates?—A. Yes, sir; we received them as we sold the oil. You know that prior to the passage of the interstate commerce law it was a man's business to get as low rates as he could.

Q. And in getting those rates you did not look out for anybody else?—A. We got the best we could.

Q. What proportion of the published rate on barreled oil did you receive as rebates, do you suppose, prior to the passage of the interstate commerce act?—A. I can not say.

Q. Half?—A. I can not answer, because I do not remember, and therefore do not want to say something that I am not positive about.

Q. I will hand you a paper; do you know what that is [handing witness a paper]? Does it recall anything to you upon the subject of rates?—A. Yes, sir.

Q. What is it?—A. This was simply an arrangement which we had with Sanford, Chamberlain & Albers, at Knoxville, who were large merchants there to whom we sold oil. We made an arrangement with them by which we sold oil at a certain price to them delivered at Knoxville, and allowed them 10 cents a barrel rebate, or commission as it were.

Q. What rate did you pay on that oil from Louisville to Knoxville?—A. I do not remember.

Q. Does the price there in that circular indicate to you the rate you paid on the oil?—A. It was simply a private memorandum that I gave Mr. Sanford's sons; a freight of $35\frac{9}{10}$ cents per hundred pounds, or \$84.72 a car-load. I judge that was it. I would like, if you please, Mr. Chairman, to mention a few matters, in connection with the testimony of some witnesses which I think relate very closely to the question. It will only take a few moments.

The CHAIRMAN. In reference to that matter, we have permitted all the witnesses here to make any supplemental statement of facts which

they desired to. But I desire to caution you that it should be a statement of facts. I do not desire you to understand that it leaves you open to say that you deny any statement, or anything of that sort, unless their statements are in relation to your personal transactions. That is not a statement of fact as the committee apprehend it.

The WITNESS. I will state the points and you can stop me if they are not proper.

Mr. CROUSE. The witness states if they are not proper statements you can stop him.

The CHAIRMAN. The witness is intelligent enough to know that what the committee desire are facts within his knowledge, and not conclusions which he has drawn from facts, which facts he does not have personal knowledge of.

The WITNESS. One very important point, and which I think is not out of the line, is this, that Chess, Carley & Co., the Chess-Carley Company, nor the Standard Oil Company, so far as I have known in ten years, never had any arrangement with any railroad by which that railroad was not entitled or had the perfect privilege to give any shipper any rate on oil that it thought necessary to do so. We never had any arrangement with any railroad which provided what that road should charge other people. All we have ever done was to attend to our own business and get the best rate we could, and the railroad at any time, if it saw proper, could give any rates they wished to other shippers.

By Mr. SMITH:

Q. That was in your section of country?—A. Yes, sir.

Q. You only have reference to that section?—A. Of course; that is all I know of. Mr. Gowen has evidently been under the impression that the American Cotton Seed Oil Company or the Cotton Seed Trust has a connection with the Standard Oil Trust. I can say that in the disposition of our tank-cars in the South, which we loaned to different cotton-seed oil shippers, we loaned those tanks to every cotton-seed oil shipper whether belonging to the American Cotton Oil Trust or any other trust, and I know of three different cotton-seed oil companies in the South to whom the Standard Oil Company have loaned their cars to facilitate their business, which are the Cotton Seed Trust, the Southern Cotton Oil Company, whose principal office is in Philadelphia—

By Mr. GOWEN:

Q. Is that Butcher's company?—A. Yes, sir. They have branches at Atlanta, Memphis, New Orleans, Augusta, and nearly all the large towns in the South where cotton seed oil is produced, and if there is any connection between the Cotton Seed Oil Company or the Cotton Seed Oil Trust and the Standard Oil Company it is not likely that the Standard Oil Company would give cars to its competitors.

Q. Now you are arguing the case. You were only to tell facts.—A. Now as to the ownership of tank cars, you mentioned that there were no tank-cars, hardly, owned by parties outside of the Standard Oil Company. In that book of evidence before the Interstate Commerce Commission it is shown there by responsible witnesses that there are over 2,200 tank-cars.

Q. That is argument too.—A. It is evidence; it is fact.

Q. It is not your evidence.—A. There are a number of tank-cars in the country given by H. R. Paine before the Interstate Commerce Commission.

Mr. CROUSE. Did the witness want to state in that connection the number that belonged to the Standard Oil Company?

The WITNESS. It was stated there that there were in the neighborhood of 3,000 tank-cars owned by the Standard Oil Company interest.

By Mr. GOWEN:

Q. The two principal ones who own tank-cars are the Union Tank Line and the Green Line.—A. They are the two largest individual owners. Outside of them the Standard have 2,200, owned by other persons.

Q. They are owned by the Green Line?—A. One thousand one hundred of them.

Q. Do you say there are 1,100 tank cars in the United States outside of what are owned by the Green Line that are controlled by the Standard Oil Company?—A. Yes, sir; it is the evidence.

Q. Where did you get it?—A. In that book, giving the names and the numbers.

Q. Did you derive your knowledge of that fact from that evidence?—A. Yes, sir; and from the tanks that I have seen shipped in the South. I have not seen 1,100 of them, but I have seen a great many tank cars.

Mr. GOWEN. We intend to offer that list in evidence.

By Mr. BYNUM:

Q. They use your tank cars to ship petroleum in South and ship cotton-seed oil back?—A. Cotton-seed oil or turpentine; but the tanks which we own and do not own the trucks we do not get any mileage on.

Q. You know as a fact that cotton-seed oil is shipped back in tanks that you ship petroleum in?—A. Yes, sir; because our agents deliver those tanks to the cotton-seed oil companies.

TESTIMONY OF BENJAMIN F. BRUNDRED.

BENJAMIN F. BRUNDRED, sworn and examined:

By Mr. GOWEN:

Q. Where do you reside?—A. Oil City, Pa.

Q. What is your business?—A. Refining oil.

Q. What is the name of your firm or corporation?—A. Imperial Refining Company, Limited.

Q. How long have you been engaged in that business?—A. About eight years, I think.

Q. Is your company connected with the Standard Oil Trust?—A. Yes, sir.

Q. Since when?—A. That I can not answer.

Q. Don't you know when it was?—A. No, sir; I do not. I came with them after they became a part of the Standard Trust.

Q. Were you engaged in business by yourself before joining this concern as a refiner?—A. Yes, sir.

Q. What was the name of your refinery?—A. The Union Refining Company.

Q. Where was that?—A. Oil City.

Q. Is that in existence?—A. The company is still in existence.

Q. But not refining oil?—A. No, sir.

Q. Was that refinery connected with the Standard?—A. Do you mean when it was built?

Q. No; when you operated it?—A. No, sir; it was not.

Q. State whether or not you know anything of your own knowledge of rebates having been recovered by you as an individual refiner against

the Pennsylvania Railroad Company upon the claim or basis that they had allowed them to others?—A. Yes, sir; we made a collection of the claim.

Q. When?—A. I think it was in 1883.

Q. How much was it in money that you recovered, do you remember?—A. I forget the exact amount.

Q. As nearly as you can?—A. In the neighborhood of \$8,000.

Q. Over what period prior to 1883 did your claim for that rebate extend?—A. I think it was for the years 1881 and 1882.

Q. Do you remember the rate per barrel that you recovered?—A. Thirteen cents a barrel.

Q. Were you obliged to bring suit for the claim or was it paid without?—A. No; I understood it was paid to an independent concern of Pittsburgh, and it was on the strength of that information that I made up a claim and presented it.

Q. And its correctness was acknowledged and you received the money?—A. Yes, sir; it was afterwards settled.

Q. You are a son, are you not, of the Mr. Brundred who is managing the Green Line?—A. Yes, sir.

Q. State whether or not it belongs to the Pennsylvania Railroad Company.—A. No, sir; I do not know anything about it.

Q. Were you never in the service?—A. I used to be in its employ.

Q. Don't you know that it belongs to the Pennsylvania Railroad Company?—A. No, sir; I do not.

Q. Who receives the money arising from its operations?—A. I do not know. It has been a long time ago, for I left them in 1877.

Q. Don't you know that the Green Line is the same line that was run at one time by the Empire Transportation Company?—A. Yes, I think it was.

Q. What became of the cars of the Empire Transportation Company?—A. I do not know, sir.

Q. It has been testified here that the Green Line is owned by the Pennsylvania Railroad?—A. I don't know.

WILLIAM W. HARKNESS—Recalled.

By Mr. GOWEN.

Q. You were examined the other day and stated then that you had been an independent refiner in connection with your brother, and had sold out your refinery, I think, for \$130,000 or \$135,000?—A. Yes, sir.

Q. Now state whether that refinery continued under the same management after you had sold it out, as it did before.—A. Yes, sir; for several years.

Q. Was the business conducted in the name of your brother?—A. Yes, sir.

Q. Although the Standard Oil Company owned it?—A. Warden, Frew & Co.

Q. They belong to the Standard Oil Company?—A. Yes, sir.

Q. Was there any change in the business?—A. No, sir.

Q. Was it conducted by the same manager who was there when you were there?—A. Yes, sir.

Q. Was he your brother?—A. Yes, sir.

Q. Was there any new process applied to the refining of oil that had not been applied when you were there?—A. No, sir.

Q. Now state, say, for the immediate two years preceding your sale of this refinery what your profits had been per annum, as nearly as you can.—A. I do not recollect, but I know they were unsatisfactory.

Q. Were they \$5,000 or \$10,000 a year?—A. Possibly that.

Q. Don't you think it was more than that?—A. No, sir.

Q. Can you tell us how much that refinery made within a year or a year and a half after you sold it?—A. As far as my recollection goes, I think the price at which it finally sold was \$130,000, and I think the whole amount of that and probably \$40,000 or \$50,000 more was made in the following year. They paid us out of our own money.

Q. That is to say, within two years after you had sold them that refinery, under the same management, managed by the same people, they made \$175,000?—A. Yes, sir, about that; from \$150,000 to \$175,000.

Q. And for two years prior to that you think your profits would not have amounted to \$10,000?—A. I think they would not.

Q. Do you think they did amount to that?—A. I hardly think they did.

TESTIMONY OF JOHN TEAGLE.

JOHN TEAGLE, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Cleveland, Ohio.

Q. What is your business?—A. Refiner of oil.

Q. What is the name of your firm?—A. Scofield, Shurmer & Teagle.

Q. How long have you been in that business?—A. Since 1873.

Q. What is the capacity of your refinery?—A. About 240,000 barrels a year.

Q. Now, if you have had any difficulties about railroad transportation, or know anything at all upon the subject of discrimination by railroads against you, and in favor of the Standard Oil Company, will you kindly tell us what you know, how you know it, and all about it?—A. We have had considerable discrimination against us in favor of the Standard Oil Company by the Lake Shore Railroad Company.

Q. State whether or not that resulted in litigation?—A. Yes, sir; it did.

Q. State whether you brought suit against them?—A. Yes, sir.

Q. Whether in that suit you discovered by testimony what these discriminations were?—A. Yes, sir; we did.

Q. Through whose testimony did you discover it?—A. Mostly from the general freight agent, Mr. Valient.

Q. Will you look at that paper [handing the witness a paper] and state what it is?—A. It is a memorandum of the difference between the rates charged us and those charged the Standard Oil Company, made up by ourselves, our firm.

Q. Is this made from the testimony adduced in your case?—A. Yes, sir.

Q. State whether or not this statement is correct, based upon that testimony?—A. Yes, sir.

Q. Now, will you kindly tell us where was the suit?—A. Cleveland.

Q. Where is that suit now? What has become of it?—A. We got judgment from them; they paid the judgment.

By Mr. CROUSE:

Q. It is settled?—A. Yes, sir.

Mr. GOWEN. I will offer this paper in evidence.
The paper is as follows:

Discrimination in rates in favor of the Standard Oil Company, and against Scofield, Skurmer & Teagle, by the Lake Shore and Michigan Southern Railway Company.

Point.	From—	To—	Special to Standard Oil Co.		Tariff to Scofield, Shurmer & Teagle.	
			Barrel.	Tank.	Barrel.	Per tank.
			<i>Cents.</i>		<i>Cents.</i>	
Chicago	Dec. 1, 1879	Apr. 15, 1880	65	\$52.00	80	Tariff since May 19, 1883, 60 cents per barrel.
Do	Apr. 15, 1880	Dec. 15, 1880	55	44.00	70	
Do	Dec. 15, 1880	Mar. 1, 1881	65	52.00	80	
Do	Mar. 1, 1881	Apr. 1, 1881	55	36.00	80	
Do	Apr. 1, 1881	July 1, 1881	45	30.00	80	
Do	July 1, 1881	Nov. 1, 1881	35	28.00	70	
Do	Nov. 1, 1881	Dec. 31, 1881	40	30.00	70	
Do	Jan. 1, 1882	Nov. 20, 1882	50	30.00	70	
Do	Nov. 20, 1882	Aug. 31, 1883	50	40.00	70	
Do	Dec. 1, 1879	May 1, 1881	25	21.00	35	Nov. 20, 1882, to May 19, 1883.
Toledo	May 1, 1881	Aug. 31, 1883	25	13.00	35	
Detroit	Dec. 1, 1879	Oct. 1, 1880	50	60	Dec. 1, 1879, to June 22, 1881. To June 1, 1883.
Do	Oct. 1, 1880	Apr. 1, 1881	45	.....	50
Do	Apr. 1, 1881	Aug. —, 1883	40	24.00	40	From June 1, 1883.
Grand Rapids	Dec. 1, 1879	Apr. 1, 1881	70	.....	80
Do	Apr. 1, 1881	Aug. 1, 1881	45	80	From June 1, 1883, 60 cents per barrel.
Do	Aug. 1, 1881	Nov. 1, 1881	85	.....	70
Do	Nov. 1, 1881	Dec. 31, 1881	35	30.00	70	
Do	Jan. 1, 1882	Dec. 31, 1882	50	30.00	70	
Do	Jan. 1, 1883	Aug. 31, 1883	50	40.00	70	To June 1, 1883.
Jackson	Dec. 1, 1879	Sept. 30, 1880	60	.....	70
Do	Oct. 1, 1880	Mar. 31, 1881	50	70	To June 22, 1881. To June 1, 1883.
Do	Apr. 1, 1881	Apr. 31, 1882	40	30.00	60	
Do	May 1, 1882	Aug. 31, 1883	50	30.00	50	From June 1, 1883.

By Mr. GOWEN:

Q. If you know anything of any changes that were made in the classification of oil rates with reference to car loads and less than car-loads at the time of the passage of the interstate commerce act, will you please tell us?—A. Yes, sir. Previous to the passage of the interstate commerce act less than car-load rates on less than car-loads were about 25 per cent. above car-load rates, and after the passage the rates on less than car-load lots were made third class, which makes nearly 100 per cent. difference.

Q. Now state whether or not that difference in the relative rates of car loads and less than car-loads was made on other materials than oil.—A. Not so far as we can find out.

Q. Where the difference is 100 per cent. it would be a discrimination of that amount as against the person who ships less than a car-load in comparison with one who ships a full car load?—A. Yes, sir.

Q. Have you got any table that will show exactly what the difference between car loads and less than car loads was made on the Lake Shore Road on oil and all other materials or substances. Have you got it here?—A. Yes, sir.

Q. Can you tell us where it came from?—A. We have made a claim against the Lake Shore—made a complaint to the Interstate Commerce Commission against the Lake Shore—of this excessive charge on small shipments in less than car-load lots.

By Mr. CROUSE:

Q. On the ground that the rate was not a reasonable one?—A. Yes, sir; and our counsel was here to-day to argue that, and in getting up

that case, our testimony and argument, we got this matter, and I use it in that way.

By Mr. GOWEN:

Q. State whether you took part in the preparation of that table, and know it to be correct?—A. Yes, sir.

Q. Will you let us have that table?—A. Certainly, sir [handing it to Mr. Gowen].

Q. On page 9 of that table is oil, is it not; showing what the oil rates were prior to the interstate commerce act, and what they were afterwards?—A. Yes, sir.

Q. That table on page 9 is confined exclusively to oil?—A. Yes, sir.

Q. State whether that table on page 10 is a comparison of the relative difference as compared with oil and that as compared with other material or articles.—A. Yes, sir; to one point.

Q. State whether or not you know these figures to be correct.—A. They are correct.

Q. Do you know whether to other places than this one that is on this table on page 9 the relative difference on oil and other material will be the same?—A. I think it is the same in the same classification to other places; only we just singled out Chicago, so that we could show easily the difference.

Q. State whether the classification has been made the same after the interstate commerce act to other places as well as to Chicago.—A. I understand that the classification is third class on all this stuff in less than car-load lots, whether oil or whether car axles or anything of that kind.

Q. The classification to all points mentioned on the ninth page is the same on less than car-load lots to other places as well as to Chicago; classifications generally cover everything, and the rates only go to places. Is not that so?—A. That is as I understand it.

Mr. GOWEN. I offer these tables in evidence.

The tables referred to are as follows:

Rates on car loads and less than car loads of oil from Cleveland to points named before and after the passage of the interstate commerce act.

To—	Prior to April 5, 1887.			Since April 5, 1887.		
	Car lots per barrel.	Less per barrel.	Per cent. latter of former.	Car lots per barrel.	Less per barrel.	Per cent. latter of former.
Adrian, Mich.....	\$0.45	\$0.60	1.33½	\$0.38	\$0.68	1.79
Albion, Mich.....	.55	.70	1.27	.42	.84	2.00
Buffalo.....	.50	.60	1.20	.34	.56	1.65
Chicago.....	.60	.75	1.25	.50	1.00	2.00
Detroit.....	.40	.50	1.25	.30	.64	2.13
Elkhart.....	.60	.75	1.25	.42	.88	2.10
Grand Rapids.....	.60	.75	1.25	.50	1.00	2.00
Kalamazoo.....	.60	.75	1.25	.46	.92	2.00
South Bend.....	.60	.75	1.25	.42	.92	2.23

Comparison between less than car-load rates on oil and other material from Cleveland to Chicago since the passage of the interstate commerce act.

Articles.	Car loads per cwt.	Less than car loads per cwt.	Difference on 400 pounds.	Difference on 400 pounds oil
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
Acid in iron drums	15	17	8	50
Grain in sacks	12	15	12	50
Car axles	15	17	8	50
Paint in barrels	15	17	8	50
Aqua ammonia in barrels or iron drums	15	17	8	50
Beef in barrels	15	17	8	50
Tallow	15	17	8	50

Q. Have you had any other difficulty upon the subject of transportation of oil, or difficulty in getting oil; and if so, will you tell us what it is, how it has affected your business in the last few years; have you been able at all times to get a good supply of oil when you depended upon the railroads for it?—A. We had a shortage of cars occasionally.

Q. Did it interfere with your business?—A. Nothing very great that I know of—that I remember just at present.

Q. Have you any knowledge of any attempt to interfere with your business by the Standard Oil Company or any interest affiliated to them by spying into your business or getting hold of any of your men?—A. I think our business has had a pretty general supervision by the Standard Oil Company.

By Mr. SMITH:

Q. Did they try to bribe your book-keeper?—A. Yes, sir; the secretary of the Standard Oil Company did.

By Mr. GOWEN:

Q. What knowledge have you upon the subject and how did you derive it; tell us all you know about it?—A. The book-keeper himself said he was approached by a brother of Mr. Squires, then secretary of the Standard Oil Company, and asked if he did not wish to make some money, and our book-keeper replied, "In what way?" And after some talk he intimated that it would be by giving him some information. Well, he inclined to let him believe that he did want to make some money, and the next morning he came and told me about it, and I requested that he continue and find out all he could, and what information they wanted, and to act under our advice, which he did; and as I remember it he was to have had so much per year, but he was to have been paid a down payment.

Q. How much was the down payment?—A. I believe it was \$50, but he got \$25.

Q. Who paid him that?—Squires's brother paid him a part, \$15, and P. Squires paid him the other \$10.

Q. What service was he to render for that?—A. I can not remember; I have a memorandum.

By the CHAIRMAN:

Q. In a general way we want to know what he was to do?—A. There were so many things he was to do that I can not carry it in my head. One of the questions was, what was the result of last year's business.

Q. That was one of the questions that your book-keeper was required to answer?—A. Yes, sir. The other was a transcript of the daily shipments,

with net prices received from the same; what is the cost for manufacturing outside of the crude; the kind of gasoline and naphtha made, and the net prices received for the same; what do they do with tar and the percentages of the same; what per cent. of water white and what per cent. of Michigan water white; how much oil exported last year. This information as fast as received to be mailed to Box 164, Cleveland post-office.

By Mr. CROUSE:

Q. How did that get into print?—A. After we got an affidavit of the book-keeper and everything I presented the matter to Mr. Squires, and got his acknowledgment of it. We then gave it, I think, to the New York Times reporter, and this is the copy as it was presented.

By the CHAIRMAN:

Q. What date have you got there?—A. I believe it was March 16, 1883 or 1884; I am not sure.

By Mr. GOWEN:

Q. How do you get your oil now?—A. We get it by the National Transit Pipe Line.

Q. What rate do you pay?—A. We pay them 25 cents a barrel.

Q. From where to where?—A. From points in the oil regions wherever it takes place.

Q. To Cleveland?—A. Yes, sir.

Q. In addition to the 25 cents per barrel on this main line and pipeage, do you have to pay local pipeage besides?—A. Yes; 20 cents.

Q. Then your oil costs you 45 cents to get it to Cleveland through local and main line pipeage?—A. Yes, sir.

Q. Do you know the distance of main line pipeage?—A. I do not know the distance.

Q. Have you had any difficulty as to the quality of oil furnished you by the National Transit Company?—A. Nothing beyond that we made one or two complaints, but nothing that was serious at all.

By the CHAIRMAN:

Q. Do they deliver this oil right at your refinery?—A. Yes, sir.

By Mr. GOWEN:

Q. From a pipeage system?—A. Yes, sir.

By the CHAIRMAN:

Q. You do not have to go to the cars; you draw it right out of the pipes?—A. Yes, sir.

By Mr. SMITH:

Q. Is the price of crude oil from the wells to your establishment the same in tanks as it is in pipes?—A. It is a little more; the present rate of crude oil in tank-cars.

By Mr. GOWEN:

Q. A little more in which, the pipe line?—A. In the cars.

Q. Than by pipe?—A. It depends upon the price.

By Mr. BYNUM:

Q. All the knowledge you have about this matter with your clerk is just what he told you about it?—A. No, sir; he made an affidavit of it, and I took the money myself back personally to Mr. Squires and charged him with it, and after his denying at first he then acknowledged it, and

I handed him back his money. . I gave the \$10 that he paid the book-keeper; he kept it, and I sent \$15 to his brother.

Q. He admitted the fact?—A. Yes, sir; he did.

Q. Did you have any contract, agreement, or understanding with the Standard Oil Company by which, previous to this time, you were to maintain any prices? Was there anything of the kind; any business arrangement between you and them?—A. At what time?

Q. At or previous to that time?

Mr. SMITH. Previous to the bribing time?

The WITNESS. No, sir.

Q. You had no agreement?—A. We had no existing agreement at that time.

Q. Had you one before that time?—A. We had an old contract years ago, in 1876; but that had been settled and done away with.

Q. There was no existing agreement at the time of this attempt to bribe your clerk?—A. No, sir.

Q. The only motive, then, would be to gain a knowledge of your business?—A. Yes, sir.

WILLIAM W. HARKNESS.—Recalled.

By Mr. BYNUM:

Q. In your testimony a few moments ago, while you were upon the stand, you stated that the receipts of the establishment you sold to the Standard Oil Company were only about \$10,000 when in your possession, but within a year or two afterwards it amounted to \$170,000. How did you obtain that information?—A. The business was conducted in the same way for several years after Warden, Frew & Co. bought us out.

Q. Did you remain in the employ of the company?—A. The business was carried on under the same name. We had part of the refinery. The same book-keeper that kept our books kept the company's books. My brother was one of the executive officers. The business was carried on so that he would not lose his identity.

Q. Did you have any supervision over the books yourself?—A. Only as proprietor.

Q. After you sold out did you have any supervision of them?—A. Yes, sir; the business was conducted in our office just as it had been before.

By Mr. GOWEN:

Q. Your name was used?—A. Yes, sir.

By Mr. BYNUM:

Q. The knowledge you gained was an actual knowledge of the business; not what some one told you of the profits?—A. Actual knowledge.

C. B. MATTHEWS.—Recalled.

By Mr. GOWEN:

Q. When you left the stand you said you would examine into the list of independent refineries that was furnished to the New York Senate committee by Mr. Rockefeller and give us some information about it; have you done so?—A. Yes, sir.

Q. What result? What do you have to say about the propriety of that list being an accurate list of independent refineries who are in com-

petition with the Standard Oil Company?—A. I have to say that quite a number of those named, some of them pretty large refineries, are not in competition with the Standard Oil Company in any direct and absolute sense; that they have contracts with the Standard, or the Standard owns stock in those companies; also that several of the companies mentioned there are companies that have been destroyed—that is, they are insolvent and unable to carry on their business—in receivers' hands and otherwise. Some that are mentioned as refineries are simply barreling stations that are not refineries now.

Q. Are there any on that list which are dismantled, whose works are dismantled or out of operation?—A. I do not know that they are entirely dismantled, any on this list.

Q. Is there any other statement you desire to make in connection with your testimony given the other day?—A. In regard to the Buffalo operation they have bought several refineries which have been entirely dismantled, and the Standard Oil Company has never built a refinery in Buffalo. What they have there they have *pirated*. They never built a new refinery there.

By the CHAIRMAN :

Q. You used the expression "pirated." Can you give us a word that will tell us what that means?—A. I meant seizing them without due process of law and destroying them by reason of their inability to lay pipes and to ship oil; crushing them out and obtaining their property in an unlawful manner, as I consider it.

Mr. SMITH. You mean in a round-about way.

The CHAIRMAN. You have not told me yet what I wanted to know. You say they seized this property. Is it property that they bought at a sheriff's sale, or is it property that they bought the stock of, or what is it you mean? I want to get the fact.—A. They prevented these parties from laying lines and from shipping oil, corrupted their employés, and such things.

Q. How many refineries are in operation in Buffalo?—A. In a general way there are three.

Q. And under what names are they operated?—A. The Atlas Oil Company, the Holmes and Adams, and the Genessee Oil Works, and my old company's works are there, but not in operation to amount to anything.

Q. Are they operated at all?—A. They have not refined any for some weeks; they just barrel a little.

Q. These other three refineries are running that you have named?—A. Yes, sir.

Q. They are actual refineries?—A. Yes, sir.

Q. Are they all three Standard Oil refineries?—A. No, sir.

Q. If one of them is, state it.—A. The Atlas is a Standard company. The Holmes and Adams are copartnerships and have had contracts with the Standard regarding the shipments and prices, and are enabled to secure Standard tanks to ship their goods in, and otherwise they seem to have affiliations which other independents do not have.

Q. There is one left, which is that?—A. The Genessee Oil Company.

Q. What is there about that?—A. I understand that to be independent, doing a moderate business.

By Mr. GOWEN :

Q. The Atlas Company is the one that Kalbfleisch used to own?—A. Yes, sir.

Q. That is the one that attempted to lay the Rock City Pipe Line?—
A. Yes, sir.

Q. That is the one that was secured by the Standard Oil Company?—
A. Yes, sir.

Q. Now, when you used the word "pirated," did you mean to say they made their business unprofitable to them, and bought out their refinery at a price lower than they could otherwise have done?—A. Yes, sir. I wish to say that a stockholder in the American Cotton Oil Trust, and who was also a stockholder in the Standard Oil Trust, told me that they had associate interests, and that he had sold a good deal of this cotton-seed oil trust stock, and they relied largely on enhancing the value of this cotton-seed oil trust stock by reason of superior advantages which they had in shipping, and he gave me a circular in which it was stated that—

By the CHAIRMAN:

Q. Have you the circular?—A. I have at home.

By Mr. GOWEN:

Q. Can you send it here?—A. I think I can. I had it a few weeks ago, and doubtless have it still.

Q. Do you know if that person was a stockholder in the Standard Oil Company?—A. He so testified.

Q. And also in the cotton-seed oil trust?—A. I can not say. He testified he was in the cotton-seed oil trust, but he told me he was trying to sell their stock.

Q. Now, have you had any experience or any difficulty in selling oil to railroad companies, and if you ever have been told that those railroad companies would buy only from the Standard people, will you tell us that?—A. I have sold to several railroads, and solicited railroad trade personally myself, considerably. I have been told by a number of agents and buyers of oils and supplies for the railroads that the quality and the price of the oil did not govern the purchases; that there were powers behind which dictated to them and made them pay much higher prices than they would have to pay if they went into the open market to get their supplies.

By Mr. SMITH:

Q. That was an answer to your applications for sales?—A. Yes, sir. I would like to say about the Producer's Protective Association that is organized in the oil regions, that I was a member of it, and I never met with them, however, but once. I found that men who were largely interested in the Standard were getting into it and assuming control for the purpose of shutting off production, which has resulted largely to the damage of the independent refineries, and, as I believe, the permanent injury of the producer. I withdrew from the association.

Q. Are you a producer interested in production?—A. I have been. I am not now.

(At this point the committee adjourned until 11 o'clock to-morrow morning.)

WASHINGTON, D. C., *May 3, 1888.*

The committee met at 11 a. m. Present: The chairman, and Messrs. Grimes, Bunuell, Crouse, Smith, and Buchanan.

AFTER EXECUTIVE SESSION.

The CHAIRMAN. Mr. Flagg, by direction of the committee I desire to state that the understanding of the committee is that Mr. Flagler, when upon the stand, agreed to furnish to it the list of the persons to whom the original 70,000,000 of Standard Oil Trust certificates were issued, not the amounts; that subsequently a question of similar import, but calling for the amounts, was put to another witness, an officer of the Standard Oil Trust, and that by the ruling of the committee so much of the question as referred to the amounts of the certificates issued was waived, but so much of the question as referred to the list of the shareholders of the original 70,000,000 of that stock—the original capitalization of the Standard Oil Trust—was not waived, and that the witnesses were informed that it would be insisted upon. We desire to know, sir, when that list will be furnished.

Mr. FLAGG. If I may be allowed, Mr. Chairman, to state my understanding of the ruling of the committee on that point, as announced by the chair, which I have consulted this morning, it was to the effect that in neither respect does the committee require that information to be furnished, either as to the amount or as to the list of names being made out. That is my understanding of the ruling of the chair, as announced after the executive session of the committee.

The CHAIRMAN. I have not the record before me, but I have consulted it and find that the witnesses were excused from giving the amount of the certificates, but were not excused as to the names of the persons to whom the certificates were issued.

Mr. FLAGG. Of course I can not say what the committee understands. I can only say what I think is the fair interpretation of the language used by the chairman. I have had no opportunity of communicating with Mr. Flagler on this subject, and I did not know until last evening that there was any doubt in the minds of the committee that he did not expect to furnish that statement. He never agreed to furnish it; and in every other instance, I think, it was very carefully seen to by the chairman of the committee or the counsel of the committee that it was understood explicitly what statements should be sent here, and memoranda were made and furnished the witnesses as to what was required, and they were expressly interrogated as to when and through whom they would send them for the benefit of the committee. I am quite sure that Mr. Flagler left here without understanding that he was required to furnish this statement, and I am also sure that there was no such understanding, at least so far as we are concerned. You asked if it could be furnished, and he said it could be very readily, but he never intimated that it would be furnished.

The CHAIRMAN. Then I understand you now—that there may be no further misunderstanding—to say that your client and the counsel for the Standard Oil Trust do not understand that the committee have required a list of the persons to whom these certificates were issued to be furnished, and that you will not furnish it, as the result of that understanding?

Mr. FLAGG. If the committee say they will require that of any of our witnesses, I must respectfully decline to furnish it on the grounds stated by Mr. Archbold—that it is dealing with the private affairs of the people for whom they stand as trustees, and that they have no right to disclose it.

The CHAIRMAN. Very well, sir; that closes that.

JOHN TRAGLE—Recalled.

By Mr. GOWEN:

Q. State whether or not your firm has a litigation pending with the Lake Shore and Michigan Southern Railway Company on the subject of an injunction.—A. Yes, sir.

Q. And that case is now pending in the Supreme Court of the United States?—A. Yes, sir.

Q. State whether or not that is a copy of the record in the case in the Supreme Court of the United States.—A. Yes, sir.

Mr. GOWEN. I propose to offer in evidence the findings of fact in the district court of Cuyahoga County, Ohio. The defendant in the case was the Lake Shore and Michigan Southern, plaintiff in error in the Supreme Court; and the plaintiffs in the case were Scofield, Shurmer & Teagle, who are now defendants in error in the Supreme Court.

Mr. BUCHANAN. Please give us the date of those findings of fact.

Mr. GOWEN. The case is docketed as of March term, 1884. There is no other date on it.

Mr. CROUSE. It must have been prior to that, then?

Mr. GOWEN. No, subsequent; it is docketed as of March term, 1884, in the district court below.

Mr. CROUSE. The things complained of were prior to that date, but the findings were subsequent?

Mr. GOWEN. Oh, yes; because the facts found go back to 1879.

(The findings of fact offered in evidence by Mr. Gowen are as follows:)

STATE OF OHIO, *Cuyahoga County*, ss:

In the district court. March term, 1884. Scofield, Shurmer & Teagle vs. The Lake Shore and Michigan Southern Railway Company. Appealed by defendant.

This cause came on to be heard upon the pleadings, exhibits, and testimony, and was argued by counsel; in consideration whereof the plaintiffs, having moved for a reservation to the Supreme Court, the judges are unanimously of the opinion that important and difficult questions exist in the case, making it proper that the same should be reserved to the Supreme Court for decision, which questions embrace the following propositions:

(1) Is this a case upon the face of the petition and under the laws of the State in which the court ought to interfere by injunction?

(2) Whether such remedy by injunction will apply as well to the case of shipments over the defendant's road alone as to cases of through shipments over such road and connecting roads?

(3) What are the duties and obligations of common carriers at common law as distinguished from the statutory provisions of this and other States and countries?

(4) Are the defendants at common law obliged to carry freight at the same price for all parties or members of the public without regard to quantity or circumstances connected with the transportation?

(5) May the defendant, as a common carrier and a corporation organized for that purpose, contract with a party controlling 90 per cent. or more of all the freight of a particular class at a given city or point, to carry the same for less than general tariff rates in consideration that it shall receive all the freight thus controlled by such party?

(6) May the defendant, as common carrier, in consideration of receiving all the freight of such party, that the quantity shall not be diminished, and that terminal facilities as to loading, unloading, and delivering the freight, shall be furnished different from regular or usual freight and with less expense and risk to the carrier, contract to carry such freight, with such convenience and benefits, for less than general tariff rates to the public?

(7) May the defendant, as common carrier, transport over its road large quantities of oil, amounting to many full car-loads per day, for a less price per car-load than it charges the public generally per barrel or for single car-loads or less, provided all persons are charged like prices for like quantities?

(8) May defendant, as common carrier, make any distinction in prices for carrying like freight on the ground of quantity and covenants to continue the same if thereby

it can make a greater profit than to charge the same prices for quantities small and great? Is defendant, under all circumstances, obliged to charge the same prices per ton or other quantity, for the same distance, to all persons tendering freight of the same class; or may it, in good faith, and without intention to injure other producers or patrons contract to carry for one party at a less price than general rates, if thereby it can secure a large and profitable business which would otherwise be diverted from it, in whole or part?

(84) Should decree be rendered for plaintiffs; and if so, to what extent should it be enforced—only within the bounds of the State, or to all parts of the country within or without the State, to all points reached by defendant and connecting lines?

(9) Was section 3372 of the Revised Statutes intended to apply to cases like the present, and under it is there any authority for the injunction relief prayed for in this action?

(10) Whether upon such shipments so made by the defendant's cars by the barrel, either in car-load lots or in less amounts, the plaintiffs are, either by common law or by the Ohio statutes on the subjects, entitled to have their said products carried at the same rate of charge between like points of shipment as are allowed to said Standard Oil Company or other shippers to points on its line or branches of said road beyond?

(11) Whether the defendant, as a common carrier, may exact from the plaintiffs upon such shipments in barrels any amount greater than the amount charged to said Standard Company upon shipment of like amounts by such tank cars, so long as the plaintiffs offer to ship by their own tank cars on substantially like terms?

(12) Whether, if such defendant can be required to give to said plaintiffs equal rates of freight upon its shipments with those allowed said Standard Oil Company to points upon its line and branches, it can be required to give as low a rate to terminal points as the rate it receives for its proportion of the service to such points, on shipments to points beyond and on its connecting lines on a through rate fixed by it and such connecting line or lines for the through shipment?

(13) Whether the fact of the existence of such arrangement, and the fact of the Standard Oil Company being a shipper in amounts larger than the plaintiffs, is any justification for the making of such charges to the plaintiff in excess of such charges made to said Standard Oil Company? And in order that the same may be legally presented to said Supreme Court the district court do find the facts as follows:

(1) The court find the plaintiffs are, and since 1875 have been, partners, carrying on in a large way at Cleveland, Ohio, where their refinery is situated, the business of refining crude oil and selling the refined product mainly through the territory west and northwest of Cleveland, and extending throughout the Western and Northwestern States; this business being one in which they have invested a large amount of capital, and in which they have established a large and profitable trade throughout the territory which constitutes the natural market for the sale of such products manufactured at Cleveland, the cost of plaintiff's refining being about \$70,000, with a refining capacity of about 150,000 barrels per year.

(2) That the defendant is a consolidated railroad company, owning and operating a railroad extending from Buffalo, in the State of New York, to Chicago, in the State of Illinois, and passing through parts of the States of New York, Pennsylvania, Ohio, Indiana, Michigan, and Illinois, and also owning and operating branches from Toledo, in the State of Ohio, to Detroit, in the State of Michigan, and also from White Pigeon, in the State of Michigan, to Grand Rapids, in the State of Michigan.

(3) That said railroad, so far as the same is constructed and operated in the State of Ohio, extends from the easterly line of Ashtabula County to the westerly line of Williams County; that it is a corporation engaged as common carrier in the business of transporting persons and property for hire and reward over its said line of road and branches.

(4) That it crosses and connects with other lines of railroads at Toledo, Coldwater, and Chicago, over which it can and does forward passengers and freight to their destination and consignment points as requested and directed; that it holds itself out as ready to make and does make the rates to points reached by connecting roads that defendant, as such common carrier, has been accustomed to receive for transporting property over its line and branches to points beyond the termini of the same, delivering the same at such termini to connecting roads for carriage to the points of consignment.

(5) That the rates for such through freights are fixed by agreement between the different companies owning the lines over which such freights are carried, and not by the defendant alone, and are changed by like agreement from time to time.

(6) That what are termed local rates, being for property received and delivered at points on the line of defendant's road, are fixed exclusively by the defendant.

(7) That some of the towns and cities on the main line and branches on the defendant's road can only be reached by shippers from Cleveland over its said road and branches; and all of them as well as the towns on most of its connecting branches can be most directly reached by means of its line from Cleveland.

(8) That the defendant is sufficiently supplied with cars and engines and appliances for transportation necessary to enable it, in the ordinary course of its business, to receive and carry for the plaintiffs such products from Cleveland to such markets.

(9) That for a period of time, extending back beyond the time when plaintiffs commenced the manufacture of oil in the city of Cleveland, the defendant has published for the benefit of the public tariff rates for local and through freights, which have been frequently changed, and including rates for the carriage of oil in barrels.

(10) The plaintiffs commenced and established their present business in Cleveland in the spring or summer of 1875, and subsequently in July, 1876, became engaged in the same by arrangement with the Standard Oil Company to the partial extent of their own manufacturing establishment.

(10½) That during the time in the petition named the Standard Oil Company, the plaintiff's principal competitor in business, has also been and still is engaged in a like business with them, it having at Cleveland a large refinery from which it sells like products in the same markets; that the refineries of both are situate on the line of railroads other than that of the defendant, but having like connection with it; that each has switch tracks extending to their refineries from the main lines of its roads on which they are situate, by means of which shipments from them are made, the course of business in making shipments by defendant's road by the car-load (which is the manner in which nearly all the business is done) being for the defendant, on the request of either, to furnish its cars, which are switched from its connecting track by the road on which the refineries are situate to the refineries, then loaded by the shippers, and by said road drawn out and placed on the defendant's tracks for shipment by its road. By some traffic arrangement between the roads a switching charge per car for such service is charged by the local road against the defendant, which is by it at its discretion charged against the shippers with its general freight charge. Upon shipments in less than car-load lots delivery is made to the defendant's freight depot.

(11) That the Standard Oil Company was then, and ever since has been, engaged in the same business at Cleveland and elsewhere, and did then and ever since has manufactured and shipped more than ninety-one hundredths of all the illuminating oil and products of petroleum manufactured and shipped at and from the city of Cleveland.

(12) The court further find that prior to 1875 it was a question whether the Standard Oil Company would remain in Cleveland or remove its works to the oil-producing country, and such question depended mainly upon rates of transportation from Cleveland to market; that prior thereto said Standard Company did ship large quantities of its products by water to Chicago and other lake points and from thence distributed the same by rail to inland markets; that it then represented to defendant the probability of such removal; that water transportation was very low during the season of navigation; that unless some arrangement was made for rates at which it could ship the year round as an inducement it would ship by water and store for winter distribution; that it owned its tank cars and had tank stations and switches, or would have, at Chicago, Toledo, Detroit, and Grand Rapids, on and into which the cars and oil in bulk could be delivered and unloaded without expense and annoyance to defendant; that it had switches at Cleveland leading to its works at which to load cars, and would load and unload all cars; that the quantity of oil to be shipped by the company was very large, and amounted to 90 per cent. or more of all the oil manufactured or shipped from Cleveland, and that if satisfactory rates could be agreed upon it would ship over defendant's road all its oil products for territory and markets west and northwest of Cleveland, and agree that the quantity for each year should be equal to the amount shipped the preceding year; that upon the faith of these representations the defendant did enter into the contract and arrangement substantially as set forth in defendant's answer; that the rates were not fixed rates, but depended upon the general card tariff rates as charged from time to time, but substantially to be carried from time to time for about 10 cents per barrel less than tariff rates, and, in consideration of such reduced rates as to bulk oil, the Standard Company agreed to furnish its own cars and tanks, load them on switches at distributing points and unload them into distributing tanks, and was also to load and unload oil shipped in barrels, and without expense to defendant, and with, by reason thereof, less risk to defendant, which entered into the consideration, and was also to ship all its freight to points west and northwest of Cleveland, except small quantities, to lake ports not reached by rail, and to so manage the shipments, as to cars and times, as would be most favorable to defendant; that defendant then agreed to said terms; that said agreement so made in 1875 has remained in force ever since.

(13) That at a cost exceeding \$100,000 said Standard Company had and constructed the terminal facilities promised and herein found; that, in fact, the risk of danger from fire to defendant, the expense of handling in loading and unloading, and in the use of the standard tank cars is less (but how much the testimony does not show) than upon oil shipped without the use of such or similar terminal facilities; that said Standard Company commenced by shipping about 450,000 barrels a year over defendant's

road, which increased from year to year until, in 1882, the year before filing the petition in this action, the quantity so shipped on defendant's road amounted to 742,000 barrels, equal to 2,000 barrels or one full train-load per day.

(14) That said arrangement was not exclusive, but was at all times open to others shipping a like quantity and furnishing like service and facilities; that it was not made or continued with any intention on the part of the defendant to injure the plaintiffs in any manner; that plaintiffs knew of an arrangement between defendant and Standard Oil Company years before January 1, 1880, and on or about July 20, 1876, contracted with the Standard Company to give it the control of the shipments of plaintiffs' oil, and the plaintiffs the benefit, if any, of any arrangements then existing or that might thereafter exist with the Standard Oil Company upon shipment of oil, and which plaintiffs received until about January 1, 1880, when they ceased operating with the Standard Oil Company, and thereafter were charged and paid the regular tariff rates published by defendant and by it charged and collected from all the public except the Standard Oil Company under the arrangement aforesaid.

(15) That the testimony on behalf of the plaintiffs fails to show the quantity manufactured or shipped by them, and how much they could or would ship by defendant's road if the Standard Company were charged tariff rates does not appear in the testimony, although the testimony does show that plaintiffs shipped many car-loads, but the court find that the Standard Company have shipped and do ship over defendant's road more than 90 per cent. of all the oil manufactured at and shipped from Cleveland.

(16) The court further find that at the time of filing the petition, and at all times after November 29, 1882, the prices charged the Standard Company from Cleveland to Chicago was 50 cents per barrel on oil in barrels and \$40 for each tank car; that at the time of filing the petition, and from and after May 19, 1883, the tariff rate between the points aforesaid was 60 cents per barrel, while from November 20, 1882, to May 19, 1883, the tariff was 70 cents per barrel; that prior to the dates aforesaid the tariff rates and rates to the Standard frequently changed, and the difference was frequently greater than after said dates; that 61 barrels constitute a car-load and 80 barrels are estimated to the tank, but that some tanks hold 100 and some 120 barrels, and that at no time were tariff rates made or published for tank cars carried by defendant with refined oil except when furnished by said Standard Company.

(17) That after said May 19, 1883, about the same difference of 10 cents per barrel existed between tariff rates and the prices charged to the Standard Oil Company to the different points along the line and consignment points beyond the termini of defendant's road; that five barrels of oil make a ton, and that the prices charged the Standard after November, 1882, from Cleveland to Chicago amounted to .70 of 1 cent per ton per mile and tariff rates to .83 of 1 cent per ton per mile; that the contract of arrangement made with defendant has been largely profitable to defendant; that during the season of water navigation the Standard Company could have shipped to said distributing points on vessels by the lakes and river barreled oil for a less sum than the rates charged to it by defendant; that the rates charged to plaintiffs and the public were reasonable rates in themselves.

(18) That the defendant, from time to time, published and still does publish and hold forth to the public a certain printed tariff of rates of charge for the shipment and delivery of all classes of freight, including the products of the plaintiff's refinery, between Cleveland aforesaid and the various towns and cities upon its said lines, branches, and connecting lines, and has refused and still does refuse to ship such products for the plaintiffs to any of such points named in its tariff or schedule except for the prices therein named; and that such schedule fixes the prices for oil shipment at so much per barrel to the public, irrespective of their being shipped in barrels by ordinary freight cars or in bulk by means of tank cars.

(19) That the plaintiffs have, since December, 1879, frequently applied to the defendant both for reduced rates upon such tariff rates and for like rates with those made to such Standard Oil Company, both upon their general shipments by the ordinary freight cars of the defendant and also upon shipments to be by them made in bulk by means of tank cars owned by them, they proposing to load and unload the same at terminal points, and to assume all risks by fire and leakage; but that the defendant has and still does refuse to allow them by either course of shipment rates less than such tariff rates, the tariff charged and demanded upon such shipments in bulk being on the basis of eighty barrels allowed to be shipped by each tankcar.

(20) The defendant has received ever since the 1st day of December, 1879, and still does receive from said Standard Oil Company at Cleveland, and ship for it like products to those of the plaintiffs at rates much less than schedule rates, and receives and ships for said Standard Oil Company oil for shipment in bulk to such points by means of tank cars of said Standard Company at rates much less than said schedule rates and much less than the rates allowed to said company for the shipment of oil by barrels in ordinary freight cars, and that such reduced rates to said Standard Oil Company by means of such tank cars are allowed both by the making to it of a lower

rate upon its shipments by the defendant's cars in barrels, and also by means of its being allowed to ship by means of its said tank cars to their full capacity, running from 80 to 120 barrels each, and averaging over 100 barrels each, and the reduced rate being charged on a basis of 80 barrels per car. The defendant charged plaintiff the switching charge, and omitted to charge the same to the Standard Oil Company; that it was a further part of such understanding that should the defendant give to other shippers like rates said Standard Company would, as far as possible, withdraw from it its shipments, and for the purpose of effectually securing at least the greater part of said trade the defendant on the completion of the New York, Chicago and Saint Louis Railway, a competing line from Cleveland to the West, in the year 1883, entered in to a traffic arrangement with it, giving to it a portion of the shipments of said Standard Oil Company west, on a condition of its uniting with it in the carrying out of such understanding as to reduced rates to said Standard Company, which arrangements still exist.

(21) That upon the shipment made by the defendant for the said Standard Oil Company of such products the rates paid for shipment to points of delivery upon the defendant's connecting lines and beyond its line have been and are less for the ratable amount of carriage charged for the distance transported over its own line than said schedule rates or than the lower rates charged to said Standard Oil Company for shipments to the terminal points at which said shipments went from said road to its connecting line; how much less the defendant has refused to state.

(22) That the reduced rates charged to said Standard Oil Company upon its shipments are arrived at by charging upon such shipments full tariff rates, and afterward, in accordance with some pre-arranged method agreed on with said Standard Oil Company, refunding to it a portion of the freight so charged and collected, the amount refunded being known as a "drawback" or "rebate."

(23) That the evidence does not establish the fact whether or not all the various advantages claimed as secured to defendant by its contract with the Standard Oil Company are the equivalent for the discrimination made to it in freights.

TESTIMONY OF VAN H. BUKEY.

VAN H. BUKEY, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Parkersburgh, W. Va.

Q. What is your business?—A. I am superintendent of the West Virginia Transportation Company, a West Virginia organization that follows the business of transporting oil by pipe line and tank car.

Q. How long has that company been in existence?—A. It was organized under several acts of the legislature of West Virginia in the years 1867, 1868, and 1869. That is, its original charter and amendment.

Q. How long have you been connected with it?—A. Just twenty years the 1st of this month.

Q. State whether or not your company at one time laid pipe in the Macksburgh region, to where and at what time?—A. In September, 1884, we laid a pipe line from several wells in the Macksburgh oil region, and continuing southerly toward Marietta, Ohio, to a point on navigable waters of the Muskingum River. The line was completed to that point on the way to Marietta. Between the extreme points I suppose it was about 7 or 8 miles long. The distance as it was intended to be completed would have been about 15 miles.

Q. State whether or not at that time there were other pipe lines in that region, to whom they belonged, and whether they came there before or after you did?—A. About the same time we laid our pipe lines the Ohio Transit Company, an Ohio corporation, laid a system of pipe lines leading to tankage along the Cleveland and Marietta Railroad within the Macksburgh oil district.

Q. That is the organization that was managed at one time by Brun dred and Dale?—A. Yes, sir.

Q. State whether the Standard Oil Company under its own or other names laid any pipe in that region?—A. A pipe line was laid during the same season by, as I understood at the time, the National Transit Company. Mr. Daniel O'Day, who is known as the manager of the National Transit Company, was prominent in the direction of laying a similar line, but up to that time they concentrated the tankage.

Q. They located tankage to your supplies of oil?—A. Yes, sir.

Q. State which of these lines was open for business first?—A. I think the Ohio Transit Company; I might possibly be mistaken.

Q. As between you and the National Transit Company, or O'Day's line, which was first?—A. Ours.

Q. How long before they?—A. A matter of a short time.

Q. Was it a matter of months or weeks?—A. Only a matter of weeks, I think.

Q. State whether or not your pipe line was laid within the area that was claimed by the railroad company?—A. It was for some distance along the railroad company's line—something over a mile.

Q. Was it as much as 2 miles?—A. Scarcely 2 miles.

Q. State whether or not you had secured the right of way over that property to lay that pipe line from the owner in fee of the property?—A. We had secured the right of way on all the land on which we laid pipe line.

Q. State to what extent competition to get oil between your pipe line and O'Day's line was carried, and what means were resorted to, commercially or otherwise, to secure business by him as against you?—A. Soon after the completion of our lines to our tanks; and by the way our system of lines to several wells concentrated to our iron tankage was laid before we commenced to lay what we called our main lines of transportation. Soon after that—I can scarcely state whether it was before we began to actually receive oil or not—a premium above the quoted price of Pennsylvania oil in the Pennsylvania oil region was paid upon oil in the Macksburg fields.

Q. By whom?—A. By the National Transit Company. I call it that.

Q. Mr. O'Day's line?—A. Yes, sir.

Q. State to what amount the premium went?—A. Thirty cents a barrel.

Q. Now state whether commercially the oil of the Macksburg field was worth any more than the oil of the Pennsylvania fields.—A. I think not, and I judge it from the fact that afterwards and now the price is identical.

Q. When they were paying 30 cents what rate of premium, if any, did you have to pay?—A. We made contracts with certain producers by which we paid 17½ cents premium.

Q. And you were able to get some oil, were you?—A. Yes, sir; some considerable quantity of oil.

Q. And you were only paying 17½ cents as against their 30 cents?—A. Yes, sir.

Q. What was the charge for the collection and delivery of oil through your pipe line at that time, do you remember?—A. I do not exactly remember what we intended to charge to the terminus of our line. The fact is, we did not charge to the terminus of the line, because we did not transport any oil there.

Q. Did you make any charge at all to the river?—A. We had established a rate, and I think it was 25 cents to the river. I am not certain about that.

Q. What became of your pipe line. I mean, finally, what was done to it or with it?—A. During the time we were building the line from our tankage, where we concentrated oil, to the terminal point, we were receiving oil.

Q. In the tanks?—A. Yes, sir; ready for transportation. On Sunday, the 5th of October, 1884, I was not at Macksburg myself, but received a telegram from my representative, who was there, that the Cleveland and Marietta Railroad people had forcibly taken up our line wherever it was laid on what they claimed to be the right of way of the railroad, and also tore out that part of our main line which crossed at nearly right angles their tracks.

Q. Under their railroad?—A. Yes, sir; some 3 miles from the point of concentration, or rather from the Macksburg district.

Q. What entire length of pipe did they take out, do you suppose?—A. Between 1 and 2 miles.

Q. Did they tear up the line of the Standard Oil Company, or of Mr. O'Day?—A. Not that I know of.

Q. Or anybody else's line?—A. Not that I know of.

Q. What measures did you take for redress?—A. We applied to the court of common pleas of Washington County, Ohio, for an injunction. Whether it was mandatory to compel them to return it or to inhibit them from further interference with our line I do not remember.

Q. What month was that in?—A. In October, 1884, I think.

Q. What became of that suit?—A. Before a hearing was had upon it the suit, upon the application of the railroad company, was removed to the United States circuit or district court—I do not know which now—at Cincinnati. I was present with our attorney when we sought to get a short hearing upon that before Judge Sage of that court. He reserved his decision until, he stated, he could consult with Judge Baxter, the circuit judge. We were informed afterwards that the hearing upon which action of the court would be taken had been postponed until a regular term of the court afterwards, which would be in June of the following year.

Q. So that from October to June of the following year you had no pipe line and no redress?—A. No redress.

Q. What occurred in the meantime? If you had any negotiations with the Standard Oil Company and Mr. O'Day, and if they bought your pipe line, state so.—A. About February, 1885, we negotiated a sale of the whole plant to Mr. O'Day.

Q. Did you get cost for it?—A. The amount we got for it did not equal the inventory I made up.

Q. What became of the oil you had accumulated in your tanks and for which you had paid as high as 17½ cents and upwards premium?—A. We sold part of the oil to a local refinery, or transported it by rail from the Macksburg oil region to Marietta. And that was the minority part that we had. The remainder of the oil we afterwards sold to the National Transit Company.

Q. Mr. O'Day?—A. Yes, sir.

Q. State whether or not, after Mr. O'Day had secured your pipe line, he secured about the same time the National Pipe Line also.—A. I can not state the exact time, but, according to my recollection now, it was a matter of perhaps a few weeks afterwards.

Q. Now state whether or not, after he had secured all the pipe lines, any premium over the price of Pennsylvania oil was paid upon Macksburg oil.—A. The premium was discontinued immediately after the acquisition of all the lines by the National Transit Company.

Q. And you lost all the premiums you had paid on the oil which you had stored in tanks and had been unable to ship in consequence of your pipes being torn up?—A. Yes, sir; I think there might have been some rise in price, but my recollection is we sold the oil as it was in our tanks upon the basis of the Pennsylvania oil, with 10 cents added to us to cover the cost of transporting the oil from the wells.

Q. State whether or not, prior to the tearing up of your pipe, you had a conference with O'Day or any talk with him about the relations which should exist between your companies?—A. I had a conference with Mr. O'Day on one occasion in regard to matters in Macksburg fields.

Q. Prior to the tearing up of your pipe?—A. Yes, sir.

Q. What relation did he then say should exist between you?—A. The conversation that we had did not extend to cover anything that might be negotiations that would lead to definite results. The conversation was general in its character, and an expression was made by Mr. O'Day that in Macksburg field, if the production increased, he would feel it incumbent upon himself, in carrying out the policy of his company, to take care of the oil, and a hope was expressed that our relations should be amicable, and also that in carrying out their policy that they desired to so arrange matters amicably as not to have competition and suggested that we might have a common interest.

Q. When you were negotiating with him for the sale of your line, after your pipe line had been torn up did he still agree to the idea of identity of interests, or did he want the exclusive control of the business?—A. I do not know that the question was very sharply presented in that direction. As we were not in a very good position, having no pipe line at the time, we were not very well prepared to make a proposition based upon any solid front or identity of interests, but all the negotiations had looked rather to a sale and the acquisition of our property entirely without any connection of any interests of ours with Mr. O'Day's company.

Q. I think I understood you to state that this raid on your pipe line took place on Sunday?—A. It took place on Sunday.

By Mr. CROUSE:

Q. Did you have any knowledge of who it was that instigated this raid on your pipe line?—A. No, sir; I have no knowledge except that it was done. By the way, your question might call out in reply that we had a letter, and I can not find it in our files now, but I presume it was filed with the papers in the case, and is with them yet in the court—we had a very short letter from the general superintendent of the Cleveland and Marietta Railroad, dated on that Sunday, the 5th, the substance of which was that "As you laid your lines upon our right of way without consultation with us, we have removed them without consultation with you."

By Mr. SMITH:

Q. This brings forth another question. Were the railroad people aware of the fact that you were laying a pipe line through their right of way?—A. The railroad people transported all our material to the point, and kindly placed their cars at other points than their regular stations, in order that we might unload our tubing to lay along the railroad track, and of course certainly they were aware of it.

TESTIMONY OF B. F. MITCHELL

B. F. MITCHELL, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Louisville, Ky.

Q. What is your business?—A. General freight agent of the Newport News and Mississippi Valley Railroad Company.

Q. How long have you occupied that position?—A. Since its organization, January 31, 1886.

Q. What was that line known as before?—A. Chesapeake, Ohio and Southwestern.

Q. You were subpoenaed to produce certain statements, I believe?—A. Yes, sir.

Q. Do you produce any?—A. No, sir; I have been absent from home, and after the subpoena was served upon me I sent it to our vice-president for inspection, and owing to a death in the family I did not have a chance to see him. When I did see him he stated that he had arranged to have us represented by counsel, and I was notified by him, I think last Tuesday, about twenty minutes past 6, that it was necessary for me to be here Thursday morning; so I scarcely had time to catch the train.

Q. In your department you are charged with naming rates, are you not?—A. Yes, sir.

Q. Are you familiar with rates on oil over your line?—A. I presume I should be, but I do not try to keep all the rates in my mind.

Q. Can you state what the rates to the Standard Oil Company or Ches-Carley Company have been as compared with rates to other people?—A. Yes, sir.

Q. What are they?—A. We did not do any business with the Standard Oil people until some time after November, 1886.

Q. When I speak of the Standard Oil Company I include all companies affiliated with them, like the Waters-Pierce Company, the Standard Oil Company of Ohio and of Kentucky.—A. We have made lower rates for other people than the rates to the Standard Oil Company.

Q. On oil?—A. Yes, sir; we have made lower rates for Mr. Rice than we ever made for them.

Q. How long did that lower rate last?—A. I do not remember exactly.

Q. What were the rates at the time of the passage of the interstate commerce act for the Standard Oil Company, in tank-cars?—A. About what they are now.

Q. What are they?—A. I have a printed tariff, but I can not give you them from memory.

Q. Do you not know what they are?—A. We are charging \$55 a tank-car from Louisville to New Orleans.

Q. On illuminating oils?—A. We carried nothing but naphtha in the tank-cars.

Q. At what rate did you bill these cars?—A. So much per tank-car.

Q. Irrespective of quantity?—A. Yes, sir.

Q. So that the price per car was not arrived at by any system of calculation of charging per 100 pounds?—A. That price we made on tank-cars from Louisville to New Orleans was made on the basis of the through rate from Cincinnati and Cleveland. The rate from Cincinnati being \$60, we could not go above \$55 from Louisville and get any part of the business, and that is why we made the rate.

Q. How did your rate per 100 pounds on tank-cars compare with your rate per 100 pounds on barreled oil prior to the passage of the interstate commerce act?—A. Our rate per barrel from Louisville to New Orleans was 75 cents.

Q. Per barrel?—A. Yes, sir; when we first made the rate on tank-cars we supposed they held about 80 barrels on an average, but during the investigation before the Interstate Commerce Commission we ascertained that they held a great deal more than that.

Q. Have you since changed your system of rates?—A. Yes, sir; we are charging now per 100 pounds on oil in tanks and barrels. In accordance with the interstate commerce decision we charged 75 cents per barrel on oil in barrels on the basis of six and a half pounds to the gallon.

Q. What is your rate on cotton-seed oil and turpentine north?—A. We are not in any turpentine district.

Q. Do you carry cotton-seed oil?—A. Yes, sir; from Memphis to Louisville and Saint Louis.

Q. Give us your rate from Memphis to any point north?—A. Our rate from Memphis to Chicago is 18 cents per 100 pounds, and 15 cents from Saint Louis and Louisville, actual weight.

Q. How does that rate per 100 pounds compare with your present rate per 100 pounds on naphtha or petroleum carried in tank cars?—A. We are charging a greater rate on cotton-seed oil than upon petroleum.

Q. Is the amount of tariff on your line greater southward or northward?—A. That varies according to the seasons.

Q. But the average of the year?—A. Well, I think it is greater north-bound. That of course is taking into consideration the lumber and turpentine.

Q. Your whole column of traffic?—A. Yes, sir.

Q. Do you allow mileage on tank cars?—A. Yes, sir; three-fourths of a cent per mile.

Q. Did you at any time make any charge or attempt to make any charge against individual owners of tank cars for the cost of moving their empty cars back?—A. During what period?

Q. Since you have been on the line?—A. The tariff that we got out some time ago for coal oil in tank cars we issued with the understanding that if we hauled tank cars back empty we should charge 3 cents per mile unless we should have the privilege of loading them. There was no objection made to our loading the tank cars except by some of our friends. Mr. Rice was one of them, and the only one, I believe, who objected to our loading his tanks, and he had never had any tank cars. He notified us that he did not think we should charge mileage. We then found that our competitors did not, and we changed that. We are not charging mileage now.

Q. For how long a period did you keep up that charge?—A. We never actually did make any charge.

Q. But it was in your tariff?—A. Yes, sir.

Q. At what date did that go into effect?—A. I can not tell you exactly.

Q. Was it before or after the decision of the interstate commerce case?—A. It was since that decision. The tariffs have all been filed with the Commission.

Q. After the decision of the interstate commerce case, then, you did make up a tariff that proposed to charge 3 cents a mile for bringing back the cars empty?—A. That is if we were refused the privilege of

loading them; but nobody refused who had tank cars, and for that reason the tariff was not in effect.

Q. Will you look over those letters and say if you know them to be your original letters and copies and answers?—A. Yes, sir. I have seen some of them before. It may be well, however, to say that these letters are the result of personal conversation and information furnished by Mr. Rice to the one now on the witness stand.

Q. You recognize those as originals of that correspondence?—A. Yes, sir; I recognize some of them.

Q. Are there any of them not authentic?—A. I think it would be well to put Mr. Rice's letters with these to make the record complete and show what these letters were answers to.

Q. These are only your own letters?—A. Yes, sir.

Mr. GOWEN. I will agree to put Mr. Rice's in with them.

By the CHAIRMAN:

Q. You identify those letters?—A. Some of these were written by myself personally, and some by others in my office. I would like to explain that at the time those letters were written there was very little oil business going south by the Ohio River by our line. We occupied a very queer position there regarding oil shipped from Marietta and points near Cleveland and Pittsburgh, the oil-producing district, and in trying to get a portion of the business with the initial lines we found, after they promised to give us the business, it was by some hook or crook being routed around us, and getting away from us by other roads. For that reason these letters were written to Mr. Rice, asking him to consign it to us at Louisville so we might have our share of the business.

By Mr. GOWEN:

Q. You were one of the railroad officers who made and issued the circular of June or July, 1886, upon the subject of rates?—A. What circular?

Q. Making a reclassification of rates.—A. Where was the meeting held?

Q. I think at Louisville; Cincinnati or Louisville.—A. No, sir; I was not at any meeting in Louisville.

Q. Cincinnati?—A. In July, 1886? Not that I remember of.

Q. Wait a moment; I will get it for you.—A. (After examining circular handed to him by Mr. Gowen.) No, sir; I was not present.

Q. Your name is annexed to it.—A. Yes, sir; I know that. It was for this reason: Our line works in harmony with the lines west of Chicago. This meeting was held at Saint Louis May 7, 1886. I was not present, but I was asked if I would agree to the rates that were agreed upon at that meeting. I answered that if all the lines adopted the rates our line would. That is all I had to do with it.

Q. Your name is affixed by authority, is it not?—A. Yes, sir; but that circular had nothing to do with coal oil, because we had never had a shipment of coal oil. That did not affect coal-oil rates and had nothing to do with it.

Q. State whether in consequence of that meeting the rates on oil were based on Chicago rates.—A. I could not tell you that, because I was never in the oil business.

Q. But you have shipped oil over your roads?—A. No, sir.

Q. Was not this circular intended to apply to coal oil?—A. No, sir.

Q. But oil is put down in it as sixth class.—A. Very true; but we

never handled coal-oil. I told Mr. Rice that in person. Mr. Rice understood that I was not a party to that circular.

Q. But your name is on it.—A. That is very true. I told you how that came there.

Q. Were not the rates on your line advanced to junction points like Meridian from \$1 to as high as \$2.50 per barrel?—A. To Meridian, Miss.?

Q. Yes.—A. That might have been possible, but that meeting had nothing to do with it, but some meeting subsequent to it.

Q. I ask you as a fact now whether subsequent to that circular the rates to Meridian, Miss., were not advanced from \$1 to \$2.59?—A. I could not tell that without examining the records.

Q. Do you know as a fact that they advanced?—A. We have advanced and lowered them time and again. They are up to-day and down to-morrow.

Q. Did you make any change up to the recent decision of the Interstate Commerce Commission in your rates on tank oil?—A. We issued a printed tariff on tank oil, taking effect, I think, April, 1887. It was an open tariff to everybody. There was no change made in our tariff until after the decision of the Interstate Commission.

Q. Was any change made since you have taken charge of this road under its present name in the rates on tank oil or naphtha until you made them in consequence of the decision of the Interstate Commerce Commission?—A. You mean were there ever any advances or declines in rates? I do not know; I presume there were.

Q. Did you not say in your previous examination that you had a fixed rate?—A. From Louisville. I take it now you are asking about all over the country.

Q. Take any place.—A. The rate from Louisville was \$55 all the time.

Q. And there was no change in that?—A. Not from Louisville proper.

Q. And that oil remained at \$55 until you made the change consequent upon the decision of the Interstate Commerce Commission?—A. That is my recollection, but I have not had a chance to examine the records, and am not certain. There may have been some variations in it.

Q. Do you not know that the rates on barreled oil during some period were at least double if not more than double the rate on tank oil?—A. From what point?

Q. Any points in your territory.—A. There have been advances in oil from various places all over the country.

Q. Well, on your line have they not been advanced?—A. Well, if the initial line advanced, of course there would be an advance in our proportion of rates south of Louisville, if the railroads prorate it.

Q. Was there not an advance in the rate from Louisville to Jackson from \$1.50 to \$2.59?—A. I do not remember.

Q. Do you remember whether there was any advance?—A. Yes, sir; I guess there has been an advance, quite likely.

Q. Do you not know that there was?—A. I do not remember.

Q. You mean to say now on your oath that you have no recollection that there was an advance in the rate on barreled oil?—A. No; I won't say there was, nor that there was not, because I do not remember.

Q. Do you know that at the date of this circular Mr. Rice had a rate of \$1.59 from Marietta to Natchez?—A. That rate was made by Mr. Frazer of the Cincinnati, Washington and Baltimore road, not by me.

Q. You participated in it?—A. Yes, sir; I participated in any rate he made.

Q. Do you not know the fact that such a rate was made?—A. There has been a rate of \$1.10.

Q. And do you not know that has been doubled?—A. No, sir; I do not know.

Q. That is what you were subpoenaed here for?—A. I did not know I was coming; my vice-president stated we would be represented by counsel here.

Q. But you were subpoenaed to produce the rates on oil?—A. Yes, sir.

Q. Did you make any effort to refresh your recollection?—A. I did not have time.

Q. When were you first subpoenaed?—A. I think it was a week ago last Saturday.

Q. Within that time you could have found out?—A. I presume I could.

Q. And you made no effort to do it?—A. As I stated before, I sent the subpoena to the vice-president, and he informed me we would be represented by counsel here.

By Mr. BUCHANAN:

Q. You spoke about the order concerning mileage in case tanks are returned empty. I understood you to say that the rate really never was exacted, because you had no case of the kind actually occurring. Am I correct?—A. Yes, sir.

Q. Do all your tanks return loaded?—A. They are usually loaded with cotton-seed oil. If not loaded by our line we turn them over to other lines at New Orleans or Vicksburg to be loaded by some other road.

Q. Do you mean to say that tanks going south loaded with petroleum come back loaded with cotton-seed oil and turpentine? Do you mean either with cotton-seed oil or turpentine?—A. Yes, sir; either one or the other.

Q. In what condition is that cotton-seed oil, ready for use?—A. It is sometimes shipped to Chicago and Saint Louis or Cincinnati, to be refined. I am not positive about that.

Q. You say you make a higher rate on cotton-seed oil than on coal oil; what is your reason for that?—A. Cotton-seed oil is worth more than coal oil.

Q. Does it cost more to haul it?—A. No, sir; but the traffic will stand a greater rate than coal oil.

Q. Then you charge what the traffic will bear, is that correct?—A. We usually charge the best rate we can get; yes, sir.

Q. And do you want this committee to understand that the only reason you charged more for cotton-seed oil than for coal oil is that cotton-seed oil is more valuable and the traffic will bear a greater charge?—A. Well, the rates on cotton-seed oil have been about what they are now for a good many years and there has been no change in them, and no reason that I know of why there should be any change.

Q. The expense of the company in transporting cotton-seed oil is no greater than in transporting coal oil?—A. No, sir; it is no greater; it is handled in just about the same way.

Q. Can you in a few words tell this committee whether prior to the late decision of the Interstate Commerce Commission that the rate for transporting oil in tanks must be equal to the rate for transporting oil

in barrels, your road transported oil over its line for the Standard Oil Company at a lower rate than it gave to others engaged in the transportation of oil?—A. I did not say that; I said we made a rate of \$55 that was open to anybody.

Q. I was not asking what you had stated. I ask you to state in a few words what the fact is, whether in point of fact you gave any special rates to the Standard Oil Company which were not open to the general public?—A. We have made the Standard Oil Company some rates less than tariff as was the custom, but it was for a very short time. The rate of \$55 a tank car was open to everybody. I say the Standard Oil Company, but I am referring to Chess-Carley Company.

Mr. GOWEN. That is the same thing.

The WITNESS. I do not recognize it as the same thing, because the Chess-Carley Company is a Louisville institution.

Mr. BUCHANAN. It is not necessary to discuss that, because we can get that from other parties having more accurate information perhaps. So I do not ask you to state whether they were or were not the same.

By Mr. GOWEN :

Q. Were not the rates which you charged up to the decision I have spoken of of the Interstate Commerce Commission on barreled oil relatively higher than your rates on tank oil?—A. Yes, sir, they were; but when you take into consideration the rates we were making on barrels as compared with the rates on tanks with an average capacity of 80 barrels it was not a very great difference.

Q. You have partly anticipated my next question, which is this: What reasons existed for making a higher rate on barreled oil than on tank oil, if any?—A. There are reasons for making a higher rate, which we considered good ones at the time. In the first place, we handled a greater portion of the oil in barrels. We had to load and unload it. There was nothing of the kind with tank cars. We simply hitched on the car and took it to its destination and were relieved of it then. But large portions of the oil in barrels we have to load on our platforms. It has been quite a troublesome matter at Memphis because of the complaints made by the fire officials.

Q. Barrels of oil are not handled on your platform, are they?—A. Two-thirds of the shipments over our line have been handled by us on our platform at Memphis.

Q. At destination?—A. Yes, sir.

J. D. ARCHBOLD—Recalled.

By Mr. GOWEN :

Q. You know the signature of Mr. Rockefeller?—A. Yes, sir.

Q. And also the signatures of Mr. Flagler and Mr. Freeman?—A. Yes, sir.

Q. State whether these are their signatures, and whether that is a certificate of the Standard Oil Trust.—A. (After examining certificate.) I think it is; those are their signatures.

Q. Do you not know?—A. Yes, sir, I should so pronounce it.

Mr. GOWEN. I offer that certificate in evidence.

The CHAIRMAN. Mr. Archbold, you will kindly wait here until later in the day, please. You are not excused.

The certificate offered in evidence by Mr. Gowen is as follows:

SHARES \$100 EACH.

STANDARD OIL TRUST.

Number 3057.

Shares, 1.

This is to certify that L. B. Mallaby is entitled to one share in the equity to the property held by the trustees of the Standard Oil Trust, transferable only on the books of said trustees on surrender of this certificate. This certificate is issued upon condition that the holder or any transferee thereof shall be subject to all the provisions of the agreement creating said trust, and of the by-laws adopted in pursuance of said agreement, as fully as if he had signed the said trust agreement.

Witness the hands of the president, secretary, and treasurer of the board of trustees, this 20th day of June, A. D. 1887, at the city of New York.

J. D. ROCKEFELLER,
President.

J. F. FREEMAN,
Treasurer.

H. M. FLAGLER,
Secretary.

For value received, I hereby sell and transfer to George Rice, of Marietta, Ohio, one share of the Standard Oil Trust standing in my name on the books of said trust.

And I hereby irrevocably appoint said George Rice attorney to make the necessary transfer upon the books of said trust, in accordance with the regulations thereof and upon the conditions expressed on the face of this certificate.

Dated June 20, 1887.

L. B. MALLABY.

In the presence of —
F. H. SMITH.

TESTIMONY OF JOSHUA MERRILL.

JOSHUA MERRILL, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. In Boston.

Q. What is your business?—A. I am in the oil business, manufacturer of petroleum oils.

Q. A refiner?—A. Yes, sir.

Q. How long have you been in that business?—A. Since 1866. Before petroleum was discovered we manufactured coal oil by distilling the coal into crude oil and refining that into the refined product.

Q. Did you ever manufacture oil from the shales?—A. Yes, sir; we imported quite largely the dog-head shales of Scotland and manufactured from that quite extensively.

Q. Where is your refinery situated?—A. In Boston.

Q. Is it still in operation?—A. No, sir.

Q. What has become of it?—A. We have recently dismantled it.

Q. Why?—A. Because it was no longer profitable to pursue the business.

Q. Can you give us any reasons for that?—A. One reason was that prices became so depreciated in the market that with our methods of manufacture the business was no longer profitable.

Q. What was your capacity?—A. A hundred thousand barrels a year.

Q. Within what time did you find that the business had ceased to be profitable?—A. I think for nearly three years last there was no profit in conducting the business; and for the last year or two some considerable loss.

Q. Prior to the last three years how did you receive your crude oil?—A. We had our own tank line and received it from the shipping stations, Olean, Buffalo, and Corey. We had works at Corey where we distilled petroleum and the residuum of petroleum we shipped to our Boston works to be refined. We had a tank line of 40 or 50 cars which we kept going back and forth.

Q. You did not make illuminating oils at Boston?—A. Yes, sir; we did.

Q. As well as at Corey?—A. Yes, sir; we carried the crude oil to Boston as well as to Corey.

Q. Within the last three years how have you been getting your supply?—A. In the same way practically, by tank.

Q. Do you ever get any supply by pipe line?—A. No, sir; we were not situated so that we could avail ourselves of pipe lines.

Q. Can you tell us what rates you paid for transportation on crude oil?—A. From Olean, which is one of the pumping stations the rates varied from \$1.50 to \$1.75. They varied from year to year and from month to month more or less.

Q. Can you give us any idea of the lowest rate within the last three years?—A. Yes, sir; 50 cents was about the average for the last three years.

Q. Then you have been getting a rate of about 50 cents a barrel for the last three years?—A. Yes, sir.

Q. And at a rate as low as that you found it impossible to make a profit?—A. I would like to explain that our methods of manufacture were somewhat different from ordinary manufacture. We made what we considered a better quality of oil, but at a larger expense; and the public, owing to the very low prices of oil made by the Standard Oil Company and other manufacturers, would not pay the price for our oil we had to get to make it profitable.

Q. At what rate of transportation do you think you could have afforded to have maintained your establishment in Boston?—A. We were unfortunately located. We had heavy terminal charges. We were located in South Boston, and it cost us about \$10 a car to get the oil to our works. The Boston and Albany Railroad delivered the oil at a certain specified rate at their depot and to get it from there to our works we had to use what was called the Marginal Railway and also the New York and New England Railroad, costing us about \$10 a car.

Q. Over what length of road?—A. Not over 2 or 2½ miles.

Q. How many barrels did your cars hold?—A. About 80 or 90.

Q. About 14 tons?—A. Somewhere in that vicinity. I know the charges were very high, and we were constantly complaining.

Q. You paid \$10 for moving 14 tons 2 miles?—A. That is about the whole story.

Q. That would be about 85 cents a ton a mile?—A. I have not figured that out in my mind but it is easily calculated. Eighty barrels of oil at 7 barrels to the ton would be between 11 and 12 tons.

Q. And that would be about 85 cents on the average per ton for 2 miles?—A. Yes, sir.

Q. That would be about 42½ cents per ton per mile?—Yes, sir; that is easy arithmetic.

Q. Do you know that it is a very unusual rate?—A. Yes, sir; and we tried over and over again to get a modification of it.

Q. What efforts did you make?—A. We made repeated efforts, personal solicitation to the railroad officers and to the railroad commissioners also, but it was the established rate on what was called the

Marginal freight road. That is a line which unites all the roads in Boston, and owned by the Old Colony road, and their rate was \$4 per car and their haul was not more than half a mile. Then the New York and New England carried it the rest of the way.

Q. Who was president of the New York and New England Railroad?—A. I do not know.

Q. Do you not know that Mr. Bostwick is president of it?—A. Yes, sir.

Q. He is connected with the Standard Oil Trust is he not?—A. I believe he has been, so far as my knowledge goes.

Q. J. A. Bostwick, is it not?—A. Yes,

Q. Of New York?—A. Yes, sir.

Q. I never had the pleasure of meeting you; I was only told you knew these things. This committee desires to get all the information it can respecting railway discriminations between the Standard Oil Company and other people. If you know anything further on that subject we will be glad to hear it?—A. I have not any knowledge excepting in matters connected with our own business.

By the CHAIRMAN:

Q. What has become of your tank cars?—A. We sold them.

Q. To whom?—A. To the Standard Oil Company, as we had no longer any use for them, we made an application to them and asked if they would purchase the cars. They assented, and we agreed on a price.

Q. Was that the Standard Oil Trust or the National Transit Company, or what?—A. Standard Oil Company, I think. The check in payment, if my memory serves me was signed by the Acme Oil Company of New York.

Q. Do you know if they went into the line called the Union Tank Line?—A. I do not know what use was made of them.

Q. What was the capacity of your tanks?—A. I think about 80 barrels each.

By Mr. BUCHANAN:

Q. The rate you spoke of from Olean to Boston was the rate given on oil transported in your tanks?—A. Yes, sir.

Q. Now, with reference to this Marginal Railroad—I think you call it?—A. Yes, sir.

Q. Is that located through a thickly-settled part of Boston?—A. It runs directly through the streets of Boston. It runs through Federal street a large portion of the way.

Q. Running through the streets; did its right of way cost it anything?—A. I do not know.

Q. Has it been in operation a long time?—A. I think it had permission from the city government to lay the rails.

Q. And when laid it occupied the streets?—A. I think it had permission from the city government to lay the rails.

Q. But when laid it occupied the public streets?—A. Yes, sir.

Q. The whole distance?—A. Yes, sir; it united the whole railway system of Boston.

Q. Do you know whether the city receives any benefit from the grant of that franchise?—A. I do not know.

Q. Do you know whether other freight hauled over that road a corresponding distance is charged a corresponding price?—A. I have no doubt it is. I know of one concern that made a serious complaint of rates of freight, having built a storehouse that made it necessary for

them to use this road. They tried hard to get the rates reduced, but without success. It is practically a monopoly, and in connecting all these lines it charges correspondingly a very high price.

Q. You spoke of having made application to the railway commission of your State. Was that a formal application stating the difficulties under which you labored, the rates charged, and asking for the intervention of the commission in the premises?—A. Yes, sir; I think so.

Q. What disposition did the committee make of that complaint?—A. Well, we had no remedy at their hands, and I think, judging from that, it was agreed that the charge was not an exorbitant one.

By Mr. SMITH:

Q. Ten dollars a car for 2 miles?—A. Yes, sir.

By Mr. BUCHANAN:

Q. It would seem that a railway corporation occupying a public street could afford to haul freight at a lower rate than that, and that is the reason that I am asking you particularly whether your railroad commission ever had the matter of these excessive charges formally before it, or whether simply individual complaints made orally.—A. No; we wrote to the commissioners that we thought the charge was very high, and they ought to interfere to have it reduced. But it was not done, and I suppose for good and sufficient reasons. Perhaps the railroad people made it appear that the charge was all right; that the amount of freight which went over the road was small, and that they had to have a high rate on it.

Q. How is the fact as to the amount of freight?—A. I think it was only moderate. I think dressed beef and some exchange of freight between the different roads is the greater part of what goes over that road. But it is the only method of connecting the railroads in Boston.

Q. Are you prepared to say to this committee, because that is the point we are inquiring about particularly, that your failure to continue your business of refining was occasioned by causes other than your unfavorable location and the excessive charges over this road?—A. No, sir; what I meant to state was that that was one factor, our terminal charges, in making it unprofitable; and the other was our mode of manufacture. If I may explain, we finished all our oils by a double distillation, whereas the ordinary process of distilling is to distil the oils all at once. Of course that added to our expense. I made a special article that was wanted in the market, but not at the price at which we were obliged to sell it. When we attempted to make oil by the popular method there were serious complaints from the trade that their customers complained that it was not the oil known as the Downey oil, and we had to go back to our old methods. But when the prices fell so very much for ordinary oils we couldn't carry on our business and make a profit, or even expenses.

Q. Having habituated your customers to receive the best they declined to receive subsequent product not of the same high standing?—A. That is the point. They would have been very glad to have got our oils at the same prices as other oils, but they were not willing to pay the price.

Q. At the time you were shipping oil from Olean to Boston, were others shipping over the same line and refining in Boston?—A. Yes, sir.

Q. What mills?—A. One was the Pierce and Montalbert, and the other was Steven Jennings' Sons.

Q. Are they still in operation?—A. No, sir. Both of those firms made oil by the ordinary process and at much less cost, but neither of them used the Marginal freight road. They were at the terminus of the Boston and Albany.

Q. What is your knowledge, if any, as to the discriminations over the line to Boston on freight charges between shippers of oil?—A. I do not think there is any. I do not know that there is.

Q. As to the party?—A. I have no knowledge that there has been any discrimination.

By Mr. GOWEN :

Q. Did you receive a rate for car service for the use of your cars?—A. No, sir; we did not own the cars, simply the tanks on the cars. We used the flats of various railroads, the New York Central, the Boston and Albany, and quite a number of different roads. Each contributed their quota of cars, and we mounted the tanks on them.

Q. Have you been connected with any other mercantile business in Boston?—A. No, sir; I was thirty-two years in the oil business. It was the business of my life.

Q. Do you know what the drayage charges would be for 2 miles in Boston?—A. I think to our works about 10 cents a barrel.

Q. To what point?—A. To any of the railway depots.

By Mr. BUCHANAN :

Q. You say these tanks were upon platform cars?—A. Yes, sir.

Q. Describe them, please.—A. They were some 28 or 30 feet in length, I can not give the exact dimensions, 4 or 5 feet in diameter, perhaps, and were secured to the platform cars in the ordinary manner by strapping, bolting, etc.

Witness excused.

TESTIMONY OF W. B. CROSBY.

W. B. CROSBY, sworn and examined.

By Mr. GOWEN :

Q. Where do you reside?—A. Atlanta, Ga.

Q. What is your occupation?—A. I am manager of the eastern division for the Standard Oil Company.

Q. Of Kentucky?—A. Yes, sir.

Q. Over what territory does your division extend?—A. From Knoxville to Key West, and from Wilmington to the Alabama line.

Q. Wilmington, N. C.?—A. Yes, sir.

Q. Do you barrel oil and distribute it at and from Atlanta?—A. Yes, sir.

Q. What kind of establishment have you there?—A. We have tankage, cooper shop, glueing and painting shops, etc.

Q. Do you make barrels there?—A. No, sir.

Q. You buy them?—A. We have made barrels, but very few.

Q. Do you buy second-hand barrels?—A. Yes.

Q. You receive your oil at Atlanta by tank cars?—A. A very large majority of it.

Q. And then barrel it and distribute it over your territory?—A. Yes, sir; over the territory tributary to Atlanta.

Q. Have you any other distributing point?—A. Yes, sir.

Q. Where?—A. Knoxville, Macon, Savannah, Augusta, Columbus, Charlotte, N. C., Wilmington, N. C., Columbia, S. C., and Charleston.

Q. From what point do you derive your supply of tank oil at Atlanta?—
A. Usually from Cleveland, Ohio.

Q. By what route?—A. To Atlanta usually by the Western and Atlantic.

Q. What other lines in connection with the Western and Atlantic form the through route?—A. Some of it comes by the Queen and Crescent route to Chattanooga, and some by the Nashville, Chattanooga and Saint Louis. North of Cincinnati I have no knowledge.

Q. Is it billed through on a through bill of lading?—A. My impression is it is billed from Cincinnati; but of that I am not so sure.

Q. What are your rates from Cincinnati or from Cleveland, as you may know them to be, to Atlanta, on crude oil in tanks?—A. We ship very little crude oil.

Q. I meant refined oil.—A. I think 31 cents net from Cincinnati. Beyond that I have no knowledge.

Q. When did that rate begin to apply?—A. The 1st of April of this year.

Q. Prior to that what were they last year?—A. I do not believe I know. We had a rate of \$61.80 either from Louisville or Cincinnati; but of that I am not sure.

Q. Sixty-one dollars and eighty cents per car?—A. Yes, sir; but those were on smaller tank-cars than those we are now getting.

Q. But was not your rate, when it was fixed, invariable with reference to the different capacities of the cars prior to the decision of the Interstate Commerce Commission?—A. I think it was so much per car at a certain time. For the last two years our through freights have been prepaid, or at least a large majority of them, so that I have really very little knowledge of northern rates prior to the 1st of April.

Q. Did you have anything to do with the subject of arranging or negotiating on rates of inland oil to you?—A. No, sir.

Q. Can you tell me what your rates were on tank oil to Charleston prior to the interstate commerce act?—A. No, sir; we shipped at Charleston usually by water.

Q. Can you give the rates to Columbia?—A. No, sir; I can not.

Q. To Savannah?—A. I have not got the rate from the West to Savannah.

Q. On tank oil?—A. No, sir.

Q. Prior to this recent decision, I mean.—A. No, sir.

Q. Nor to Macon?—A. Yes, sir; but it was proportionate to Macon with the distance to Atlanta. It was slightly more, but just what it was I do not remember.

Q. You mean based on the same rate?—A. I think so.

Q. Can you tell us what was the rate on tank oil to Macon?—A. No, sir.

Q. To Knoxville?—A. No, sir; Knoxville was a new station established last January and everything was prepaid there.

Q. On the question of inland freights to you, who had charge of the rates on barreled oil to outward points?—A. The Georgia railroad commission.

Q. But who on your part negotiated and got the rates?—A. There was no negotiation; we simply accepted the tariff rates.

Q. Can you tell us what the rates on barreled oil outward from Savannah were prior to any change that may have been made by reason of the interstate commerce decision?—A. They were practically the same with the exception of a change of classification. Some two months ago oil in car loads was reduced to sixth class; prior to that it had been

fourth class. That was done by the rating committee of the Southern Railroad and Steam-boat Association. We have always paid full tariff rates.

Q. On barreled oil?—A. Or tank oil out of Atlanta.

Q. Any other places?—A. Or any other southern point; or any point I have knowledge of.

Q. What portion inland did you receive in tank-cars as compared with barrels?—A. At a great many stations we received everything in barrels. At those stations I have named we received some in barrels and some in tank cars. At all those coast points we are receiving at this moment in barrels.

Q. That is all shipping points?—A. Yes, sir.

Q. But to these points where you have facilities for re-barreling, what proportion comes in tanks and what proportion in barrels?—A. Well, I never figured that.

Q. Can you tell us roughly; was it half or three-quarters?—A. At Atlanta I presume we receive in bulk eight-tenths. At other stations we receive about as great a proportion to the contrary; that is, as great a proportion in barrels. In other words, we received eight-tenths at other stations in barrels.

Q. At any place where you had a barreling station?—A. Yes, sir.

Q. You did not change those barrels of oil from old barrels into new ones, did you?—A. No, sir; we sold in the same package.

Q. What would be the object of barreling works unless to receive oil in bulk and re-barrel it?—A. That would depend upon circumstances. For instance, at stations where we had barreling facilities the market may be clear of barrels. There may be none to purchase, in which case we would have to ship in barrels until there was a change.

Q. Can not you give me some idea of what your average proportion of rates in tanks was at the various points you have named—Knoxville, Macon, Savannah, Augusta, Columbus, Charlotte, N. C., Wilmington, N. C., Columbia, and Charleston?—A. I have a great many minor stations at which I receive nothing but barrels.

Q. Yes; I know that. That is not the question I asked you.—A. For what time?

Q. Taking through the year.—A. Well, I should think probably more than half, taking them all together, is received in bulk.

Q. That would be including the coast stations?—A. Yes, sir.

Q. Now, then, suppose you exclude the coast stations and confine yourself to the remaining ones, where you receive the supply inland by rail, would the proportion come up to three-fourths, do you suppose?—A. No, sir; because I have some stations where we ship entirely in barrels.

Q. Some of these re-barreling stations?—A. Yes, sir.

Q. Well, I just want the proportion; would it be five-eighths?—A. It would be simply a guess to estimate that, because I never thought to figure it. I should think it would be a fraction over a half.

Witness excused.

Mr. GOWEN. Mr. Stith telegraphs me that he is under a subpoena by a Federal court and can not attend without disobeying that. Mr. Warner is in New York and can be here to-morrow. I telegraphed him yesterday, but the answer I got was that he had left the office before the telegram was received. He will come here if the committee will be in session to-morrow.

Mr. BLAIR. I will make the same explanation about Mr. Warner as

about Mr. Stith. He has been in attendance upon a Federal court in New York and could not leave.

Mr. GOWEN. Yes; but he got out of court yesterday, and could easily have been here.

The CHAIRMAN. We will dispose of that later.

Mr. GOWEN. I will state to the committee that there are four witnesses here who have not treated the committee with much respect, and who, I am informed, have announced their determination not to come. One of them is R. M. Fraser, general freight agent of the Cincinnati, Washington and Baltimore Railroad; the other three are H. Collbran, general freight agent, John C. Cole, general manager, and O. C. Harvey, controller of the Queen and Crescent Lines.

Mr. BUCHANAN. I would suggest, Mr. Gowen, that you are not entirely accurate in saying "there are four witnesses here;" they are not here.

Mr. GOWEN. Of course.

Mr. SMITH. That is not strange at all. You did not expect that a member of a corporation would respect the will of the representatives of the people.

Mr. GOWEN. The counsel for this company called upon the chairman on Tuesday of last week and was referred to me. On that day I gave him a very condensed and reduced statement of what books and papers were wanted, which he was to telegraph to the officers of his company that night. I told him that if they were here on Tuesday it would answer. I have heard nothing since, except that that same counsel wrote a letter to Mr. Bacon, the chairman, making no reference to what had occurred between us, and stating that as he had not been able to see Mr. Bacon or myself the afternoon previous, he was unable to tell his witnesses whether they would or would not be needed.

The CHAIRMAN. The committee will now take a recess until half-past 2.

AFTER RECESS.

TESTIMONY OF GEORGE RICE.

GEORGE RICE, sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Marietta, Ohio.

Q. What is your business?—A. I am in the oil business.

Q. What part of the oil business; are you a refiner?—A. I am a refiner and producer both.

Q. Where do you produce oil?—A. In the Macksburgh field.

Q. In Ohio?—A. Yes, sir.

Q. Where is your refinery?—A. In Marietta, Ohio.

Q. How long have you been in the refining business?—A. About twelve years. I have been a refiner twelve years and producer about twenty-three years altogether.

Q. What is the capacity of your refinery?—A. About 12,000 barrels of crude oil per month.

Q. State, with reference to the manner in which you manage your business, whether it is done by your own family or whether you have large expenses?—A. The executive part of the business is done altogether by my family. One daughter keeps the books, another daughter does nine-tenths of the correspondence, and my son-in-law is the general manager.

Q. And what do you look to?—A. Outside matters.

Q. Where do you find the principal market for your product?—A. In the Southern States.

Q. Over what section?—A. East of the Mississippi and some west of the Mississippi; taking in New Orleans and Texas.

Q. Prior to 1880 I understand you got your oil from the Pennsylvania district?—A. Yes, sir; we did up to about the first of January, 1884. I got a little from Macksburgh at the same time.

Q. State how you got that oil from the Pennsylvania field.—A. By barge down the Allegheny River and down the Ohio River.

Q. At what port on the Allegheny River did you transfer the oil?—A. At East Brady.

Q. How was that brought to the barges?—A. From the tanks of the National Transit Company and by pipe line to the barges.

Q. What did you pay for barging that oil down?—A. It cost me about 3 cents if I sent two barges and about 5 cents if I sent up one barge.

Q. A barrel?—A. Yes, sir.

Q. What became of that pipe line?—A. That was taken up by Mr. O'Day's orders, and I was forced to use the railroad from East Brady to Pittsburgh, costing 15 cents a barrel, and had to make terminal facilities at Pittsburgh to the barges.

Q. Do you know why that pipe line was taken up?—A. For no reason except to make me pay more charges.

Q. What was its length?—A. It was very short.

Q. What size?—A. About 3-inch.

Q. How much oil were you taking a year at that time through that pipe line?—A. I did not increase the refining capacity of my works until 1880, or about that time. I doubled the capacity in 1880, and have not increased it since.

Q. Do you remember about how many thousand barrels a year you took through that pipe line at the time they tore it up?—A. About 20,000 or 25,000 barrels of crude—something like that.

Q. When did you go to the Macksburgh field for your entire supply?—A. About the time it increased its production; in the fall of 1883 or the beginning of 1884.

Q. What per cent. of oil from the Macksburgh field had you been receiving up to that time?—A. About 25 per cent.

Q. How did you receive it?—A. In tank-car—my own tank—I had one tank-car.

Q. At what rate?—A. At 17½ cents at one time before the advance was made.

Q. Was that rate raised on you?—A. Yes, sir; about January, 1884, it was raised to 30 cents and afterwards to 35 cents.

Q. Who were Brundred & Dale at that time?—A. W. J. Brundred was the general manager of the Green Line which transported tank-cars on the Pennsylvania Road. He and Dale made an arrangement with the Cleveland and Marietta Railroad by which they were to have oil carried at 15 cents a barrel, and all others were to pay 30 cents. I was charged 30 cents; but they did not do any business for me. I had to pay 30 cents, except that they allowed me 5 cents for oil transported in my own tank-car.

Q. Do you know as a fact that at the time their charge against you was 30 cents Brundred & Dale were only paying 15 cents?—A. I know that positively.

Q. How long did that last?—A. About a year. Then came in this other arrangement by which the Standard paid 10 cents and I was

charged 35 cents. They also got 25 cents per barrel on all my shipments. The matter went into court before Judge Baxter and these facts were developed.

Mr. GOWEN. I now offer in evidence in connection with this the report of this whole case reported in the Federal Reporter. That is the case of Handy against the Marietta Railroad, Federal Reporter, vol. 31, pages 689 to 693 inclusive.

Handy and another, trustees, v. Cleveland & M. R. Co. and others.

(Circuit court, S. D. Ohio, E. D. 1887.)

1. RAILROAD COMPANIES—RECEIVERS—DISCRIMINATION.

The receiver of an insolvent railroad company can not unjustly discriminate in the charges imposed upon rival shippers over his road in order to increase his revenues, and, if guilty of discrimination, may be removed by the court therefor.

2. SAME—REMOVAL.

The Standard Oil Company having threatened to store its oil until it could lay a line of pipes to Marietta unless the receiver of a railroad company should give it a special oil rate, the receiver agreed to carry its oil at 10 cents per barrel, to charge rival shippers 35 cents per barrel, and to pay 25 cents per barrel of the sum collected from rival shippers to the Standard Oil Company. Held to be such gross and wanton discrimination on the part of the receiver as to require his removal.

Hugh L. Cole, for complainants.

Swayne, Swayne & Hayes, for defendant.

BAXTER, J. This suit was commenced in the common pleas court of Washington County, Ohio, January 12, 1885, to foreclose a mortgage upon the road and other property of the defendant, the Cleveland and Marietta Railroad Company, in which Phineas Pease was appointed receiver and vested with the powers usually conferred in such cases. In March following it was removed to this court for such further action as the exigencies thereof might require. Everything progressed satisfactorily until October, 1885, when, upon complaint made of unjust discrimination by the receiver, an investigation was had resulting in the development of the following facts:

The Standard Oil Company owned or controlled certain pipe lines through and by means of which it collected and piped the oil procured by it in the vicinity of Macksburgh, a station on said road, to be carried thence by rail, either to Cleveland or Marietta. It thus controlled a large amount of freight, which the receiver was, very naturally, solicitous of securing. But the conditions proposed were so unusual and unjust and oppressive to rival shippers that the receiver, after reluctantly acquiescing in the company's demand, sought to fortify himself by the advice of an attorney, and to this end wrote the following communication:

CAMBRIDGE, OHIO, February 25, 1885.

EDWARD S. RAPPELLO, Esq.,

General Counsel for Receiver, 32 Nassau street, New York:

DEAR SIR: This will introduce Mr. J. E. Terry, assistant freight agent of this road, whom I send to New York to counsel with you in regard to verbal arrangements made with the Standard Oil Company for transporting the oil product along the line of our road to Marietta. Upon my taking possession of this road the question came up as to whether I would agree to carry the Standard Company's oil to Marietta for 10 cents per barrel, in lieu of their laying a pipe line and piping their oil. I, of course, assented to this, as the matter had been fully talked over with the Western and Lake Erie Railroad Company before my taking possession of the road, and I wanted all the revenue that could be had in this trade.

Mr. O'Day, manager of the Standard Oil Company, met the general freight agent of the W. & L. E. Railroad and our Mr. Terry at Toledo about February 12, and made an agreement (verbal) to carry their oil at 10 cents per barrel. But Mr. O'Day compelled Mr. Terry to make a 35-cent rate on all other oil going to Marietta, and that we should make the rebate of 25 cents per barrel on all oil shipped by other parties, and that the rebate should be paid over to them (the Standard Oil Company), thus giving us 10 cents per barrel for all oil shipped to Marietta, and the rebate of 25 cents per barrel going to the Standard Oil Company, making that company, say, \$25 per day clear money on Mr. George Rice's oil alone.

In order to save the oil trade along our line, and especially to save the Standard oil trade, which would amount to seven times as much as Mr. Rice's, Mr. Terry verbally

agreed to the arrangement, which, upon his report to me, I reluctantly acquiesced in, feeling that I could not afford to lose the shipment of 700 barrels of oil per day from the Standard Oil Company. But when Mr. Terry issued instructions that on and after February 23 the rate of oil would be 35 cents per barrel to Marietta, Mr. George Rice, who has a refinery in Marietta, very naturally called on me yesterday, and notified me that he would not submit to the advance, because the business would not justify it, and that the move was made by the Standard Oil Company to crush him out. (Too true.) Mr. Rice said: "I am willing to continue the 17½-cent rate which I have been paying from December to this date."

Now, the question naturally presents itself to my mind, if Mr. George Rice should see fit to prosecute the case on the ground of unjust discrimination, would the receiver be held, as the manager of this property, for violation of law? While I am determined to use all honorable means to secure traffic for the company, I am not willing to do an illegal act (if this can be called illegal), and lay this company liable for damages. Mr. Terry is able to explain all minor questions relative to this matter.

Hoping for your careful consideration of this matter and an early reply, I remain, sir, truly yours,

P. PEASE,
Receiver and General Manager.

To the foregoing request, Mr. Rappelo "after," as he says in a letter returned with his opinion, "carefully considering the question," and "consulting with his partner, Mr. Cole, and representative bondholders," made the following reply:

32 NASSAU STREET, NEW YORK, March 2, 1885.

GENERAL PHINEAS PEASE,

Receiver Cleveland and Marietta Railroad Company:

DEAR SIR: My opinion is asked as to the legality of your making such an arrangement with the Standard Oil Company as set forth below.

The facts, as I understand them, are as follows: The Standard Oil Company proposes to ship, or control the shipping of, a large amount of oil over your road; say a quantity sufficient to yield to you \$3,000 freight per month. That company also owns the pipes through which oil is conveyed from the wells owned by individuals to your railroad, except those pipes leading from the wells of Mr. George Rice, which pipes are his own. The company has, or can acquire, facilities for storing all its oil until such time as it can lay pipes to Marietta, and thus deprive your company of the carriage of all its oil. The amount of oil shipped by Mr. Rice is comparatively small; say a quantity sufficient to yield \$300 per month for freight. The Standard Oil Company threatens to store, and afterwards pipe, all oil under its control, unless you make the following arrangement, viz: You shall make a uniform rate of 35 cents per barrel for all persons excepting the Standard Oil Company; you shall charge them 10 cents per barrel for oil, and also pay them 25 cents per barrel out of the 35 cents collected from other shippers.

"It may render the subject less difficult of consideration to determine, first, those acts which you can not with propriety do as receiver. You are by the decree vested with all the powers of receiver, according to the rules and practice of the court, are directed to continue the operations of the railroad, and can safely make disbursements from such moneys as come into your hands for such purposes only as the decree directs, viz, wages, interest, taxes, rents, freights, mileage on rolling-stock, traffic balances, and certain debts for supplies. In my opinion, this would not protect you in collecting freight from one shipper and paying it over to another. All moneys received, therefore, from any person for freight over your road must pass into your hands, and there remain, to be disbursed by proper authority. After an examination of your statutes, however, I find no prohibition against your allowing a discount or charging a rate less than a schedule rate to a shipper on account of the large amount shipped by him. As you are acting, therefore, in the interest of the company, and endeavoring to increase its legitimate earnings as much as possible, I find nothing in the statutes to prevent your making a discrimination, especially where the circumstances are such that a large shipper declines to give your road his freight unless you allow him to ship at less than schedule rates. Therefore there is no legal objection to the making an arrangement which, in practical effect, may be the same as that proposed, provided the objections pointed out above are obviated.

"You may, with propriety, allow the Standard Oil Company to charge 25 cents per barrel for all oil transported through their pipes to your road; and I understand from Mr. Terry that it is practicable to so arrange the details that the company can, in effect, collect this direct, without its passing through your hands. You may agree to carry all such oil of the Standard Oil Company, or of others, delivered to your road through their pipes, at 10 cents per barrel. You may also charge all other shippers 35 cents per barrel freight, even though they deliver oil to your road through their own pipes; and this, I gather from your letter, and from Mr. Terry, would include Mr. Rice.

"You are at liberty, also, to arrange for the payment of a freight by the Standard Oil Company calculated upon the following basis, viz: Such company to be charged an amount equal to 10 cents per barrel, less an amount equivalent to 25 cents per barrel upon all oil shipped by Rice, the agreement between you and the company thus being that the charge to be paid by them is a certain sum ascertained by such a calculation. If it is impracticable so to arrange the business that the Standard Oil Company shall, in effect, collect the 25 cents per barrel from those persons using the company's pipes from the wells to the railroad without its passing into your hands, you may properly, also, deduct from the price to be paid by the company an amount equal to 25 cents per barrel upon the oil shipped by such persons. Provided your accounts, bills, vouchers, etc., are consistent with the real arrangement actually made, you will incur no personal responsibility by carrying out such an arrangement as I suggest.

"It is possible that, by a proper application to the court, some person may prevent you, in future, from permitting any discrimination. Even if Mr. Rice should compel you, subsequently, to refund to him the excess charged over the Standard Oil Company, the result would not be a loss to your road, taking into consideration the receipts from the Standard Oil Company, if I understand correctly the figures. There is no theory, however, in my opinion, under the decisions of the courts relating to this subject, upon which, for the purpose, an action could be successfully maintained in this instance.

"Yours, truly,

"EDWARD S. RAPELLO."

From this correspondence it appears that the Standard Oil Company and George Rice were competitors in the business of refining oil; that each obtained supplies in the neighborhood of Mackaburgh, a station of said railroad, from whence the same was carried to Marietta or Cleveland, and that for this service both were equally dependent on the railroad, then in the hands of the receiver. It further appears that the Standard Oil Company desired to "crush" Rice and his business, and that, under a threat of building a pipe for the conveyance of its oil and withdrawing its patronage from the receiver, O'Day, one of its agents, "compelled Terry," who was acting for and in behalf of the receiver, to carry its oil at 10 cents per barrel, and charge Rice 35 cents per barrel for a like service, and pay it 25 cents out of each 35 cents thus exacted from Rice, "making" in the judgment of the receiver, "\$25 per day clear money" for it "on Rice's oil alone." But it is due to the receiver to say that, notwithstanding his admitted "reluctant acquiescence" in the contract made by Terry on his behalf, and the indorsement thereof by Rapello, and the further conceded fact that he charged the Standard Oil Company 10 cents and Rice 35 cents per barrel as aforesaid, he denies that he ever paid to the Standard Oil Company any part of the money received from Rice. We will, therefore, for the present accept his affirmation touching this matter as true.

But why should Rice be required to pay 250 per cent. more for the carriage of his oil than was exacted from his competitor? The answer is that thereby the receiver could increase his earnings. This pretense is not true. But, suppose it was, would that fact justify, or even mitigate, the injustice done to Rice? May a receiver of a court, in the management of a railroad, thus discriminate between parties having equal claims upon him, because thereby he can accumulate money for the litigants? It has been repeatedly adjudged that he can not legally do so. Railroads are constructed for the common and equal benefit of all persons wishing to avail themselves of the facilities which they afford. While the legal title thereof is in the corporation of individuals owning them, and to that extent private property, they are, by the law and consent of the owners, dedicated to the public use. By its charter, and the general contemporaneous laws of the State, which constitute the contract between the public and the railroad company, the State, in consideration of the undertaking of the corporators to build, equip, keep in repair, and operate said road for the public accommodation, authorized it to demand reasonable compensation, from every one availing himself of its facilities, for the service rendered. But this franchise carried with it other and co-relative obligations. Among these is the obligation to carry for every person offering business, under like circumstances, at the same rate. All unjust discriminations are in violation of the sound public policy, and are forbidden by law. We have had frequent occasions to enunciate and enforce this doctrine in the past few years. If it were not so the managers of railways, in collusion with others in command of large capital, could control the business of the country, at least to the extent that the business was dependent on railroad transportation for its success, and make and unmake the fortunes of men at will.

The idea is justly abhorrent to all fair minds. No such dangerous power can be tolerated. Except in the modes of using them, every citizen has the same right to demand the service of railroads on equal terms that they have to the use of a public highway or the Government mails; and hence when, in the vicissitudes of business, a

railroad corporation becomes insolvent, and is seized by a court, and placed in the hands of a receiver, to be by him operated pending the litigation, and until the rights of the litigants can be judicially ascertained and declared, the court is as much bound to protect the public interests therein as it is to protect and enforce the rights of the mortgagees and mortgagors. But after the receiver has performed all obligations due the public, and to every member of it, that is to say, after carrying passengers and freight offered, for a reasonable compensation, not exceeding the maximum authorized by law, if such maximum rates shall have been prescribed, upon equal terms to all, he may make for the litigants as much money as the road, thus managed, is capable of earning. But all attempts to accumulate money for the benefit of the corporators or their creditors, by making one shipper pay tribute to his rival in business at the rate of \$25 per day, or any greater or less sum, thereby enriching one and impoverishing another, is a gross, illegal, and inexcusable abuse of a public trust, that calls for the severest reprehension.

The discrimination complained of in this case is so wanton and oppressive it could hardly have been accepted by an honest man, having due regard for the rights of others, of conceded by a just and competent receiver, who comprehended the nature and responsibility of his office; and a judge who would tolerate such a wrong, or retain a receiver capable of perpetrating it, ought to be impeached and degraded from his position. A good deal more might be said in condemnation of the unparalleled wrong complained of, but we forbear. The receiver will be removed. The matter will be referred to a master to ascertain and report the amount that has been as aforesaid unlawfully exacted by the receiver from Rice; which sum, when ascertained, will be repaid to him. The master will also inquire and report whether any part of the money collected by the receiver from Rice has been paid to the Standard Oil Company, and, if so, how much, to the end that, if any such payments have been made, suit may be instituted for its recovery.

Q. When you found this rate against you of 35 cents as against theirs of 10 cents, out of which, as I understand, they were paid 25 cents on your oil?—A. Yes, sir; that is an absolute fact.

Q. What efforts, then, did you make to release yourself and find another outlet for your oil?—A. After I found that I could not get a rate of less than 35 cents I built a pipe line from Macksburgh to Lowell, on the Muskingum River, and then barged it down.

Q. Was that your own pipe line?—A. Yes, sir.

Q. Pending construction of that pipe line what did you do with your oil?—A. While that line was building I built considerable wooden tankage and stored the oil, so as to get the advantage of the pipe line when it was built.

Q. Have you continued to receive oil from that time through your own pipe line?—A. Yes, sir.

Q. To this river through which you barged it to Marietta?—A. Yes, sir.

Q. Did you ship it in bulk in the barges?—A. Yes, sir.

Q. When the river is frozen over or too low how do you transport your oil?—A. By rail, and get the rate of 10 cents which the Standard used to get.

Q. You are now charged only 10 cents as against 35 cents which you used to pay?—A. Yes, sir.

Q. Do you remember a period in 1886 when the rates were changed to you on oil?—A. Very distinctly.

Q. State what your business was, in extent, etc., up to that time?—A. We were increasing our business very largely. Our rates were low enough so that we could compete in the general southern market.

Q. Look at this circular, which is already in evidence, and state what you know about it [handing witness circular of May 6th and 7th, 1886].—A. The first time I saw this circular was in Mr. Broadus's office in Louisville. I went there to see about this advance, and wanted to know what it had been based on. He showed me a copy of this circular, and stated that this was the circular on which the rates were advanced. I looked it over and found the rates were based upon Chicago

rates. I could not understand why that should be and asked him. He stated that he could not see himself why these rates should be based upon Chicago rates. He permitted me to take a copy of it, which I did in writing, but only the main portions of it. Afterwards I got a printed copy from other sources. This was the circular which advanced the rates on July 15, 1886.

Q. When were you notified of the advance?—A. Only in this way: I had a notification on July 7 that there would be a change in the rate, but no notification that they would be advanced. I paid no attention to that notice at first, but finally I made up my mind that there was something wrong, and went to Cincinnati and had a talk with Mr. Frasier. I asked him what the rates were to be. He said there would be an advance. I asked him if he had a list of the rates so that I could see just what they were. He said, "No; I have not got the list made out, but I will give you some points."

Q. What time was that?—A. That was on July 13 that I called upon him. I then went over to Louisville and met Mr. Mitchell, who has the connecting line with the Ohio and Marietta and the Cincinnati, Washington and Baltimore, over which I had been sending all my business, and asked him for the rates, and after considerable talk he gave me a list of them. He was the first man that gave me a full list of the rates. I got a letter on August 23 from Mr. Frasier, in which he gave me rates showing an advance of 159 and 160 per cent. in some instances. Those largest advances were to junction points.

Q. The first time you got a full list of those advances, and a proper notification, was in August?—A. Yes, sir; from the initial line.

Q. That Mr. Fraser controlled?—A. Yes, sir; from Marietta to Cincinnati.

Q. If you have any knowledge of the fact that Mr. Frasier gave notice of the advanced rates first to your competitors tell us how you got that information?—A. In the quo warranto suits brought by the State of Ohio against two of these roads to forfeit their charters, it was developed there—I heard the testimony—that these rates were given out by Mr. Frasier to Mr. Cole, the vice-president of the Camden Consolidated Oil Company, on July 14, of these very rates, which were to take effect on July 15. I did not get notice of the rates until August 23. It was developed afterwards that they were not using these rates at all, but they had been giving my rates, which I did not get notice of until August 23.

Q. Was the Camden Company a competitor of yours?—A. Yes, sir; a very strong competitor.

Q. Did they transport oil by tank-cars?—A. Yes, sir; altogether by tank.

Q. Therefore, this company gave notice to your rivals what your rates were to be before you got that knowledge?—A. Yes, sir.

Q. Have you with you a copy of that letter?—A. I have copies of all the exhibits in the case.

Q. [Handing letters to witness] State whether these are exhibits filed in the quo warranto case in Ohio.—A. Yes, sir.

Q. L. A. Cole is vice president of the Camden Consolidated Oil Company?—A. Yes, sir.

Mr. GOWEN. I would like to offer in evidence the whole of these letters.

The CHAIRMAN. What is that letter?

The WITNESS. A letter from Mr. Fraser, of the Cleveland and Mari-

etta road, to L. A. Cole, dated July 14, 1886, giving him a list of the rate that was to take effect from July 15.

Mr. GOWEN. This other paper is your notification, dated August 23, of the change of the rates?—A. Yes, sir.

By the CHAIRMAN:

Q. Was that notification to you given to you in compliance with a request from you?—A. We had asked for rates several times.

Q. I ask you whether this was in direct compliance with your request?—A. We had been asking for rates all the time, and this is the first official list of rates we got.

Mr. GOWEN. I offer those papers in evidence. They are as follows:

G. B. E. 4.

CINCINNATI, OHIO, July 14, 1886.

L. A. COLE, Esq.,
Parkersburgh, W. Va.:

DEAR SIR: I attach for your information list of rates on oil taking effect July 15. Parkersburgh, Marietta, and Harmar. The list will be added to from time to time as circumstances require, and I will endeavor to keep you informed of the changes or additions.

Yours, respectfully,

R. M. FRASER, G. F. A.

Rates on petroleum oil products per barrel from Marietta, Harmar, and Parkersburgh, in car-loads of 60 barrels and over.

To—	Rate.	To—	Rate.
	<i>Cents.</i>		<i>Cents.</i>
Cincinnati, Ohio	36	Bloomington, Ill	90
Columbus, Ohio	40	Cairo, Ill	90
Cleveland, Ohio	40	Chicago, Ill	90
C., W., and B. stations, Ohio	30	Decatur, Ill	90
Dayton, Ohio	50	East Saint Louis, Ill	90
Gallipolis, Ohio	40	Mattoon, Ill	90
Ironton, Ohio	40	Peoria, Ill	90
Lancaster, Ohio	40	Rock Island, Ill	100
Springfield, Ohio	50	Springfield, Ill	100
Waverly, Ohio	40	Charleston, W. Va	90
Washington Court-House, Ohio	40	Davenport, Iowa	120
Wilmington, Ohio	40	Louisville, Ky	90
Evansville, Ind	90	Fulton, Ky	100
Fort Wayne, Ind	50	Henderson, Ky	100
Indianapolis, Ind	50	Owensborough, Ky	100
Jeffersonville, Ind	60	Paducah, Ky	120
Logansport, Ind	65	Jackson, Miss	120
Muncie, Ind	60	Meridian, Miss	120
New Albany, Ind	60	Vicksburg, Miss	100
Plymouth, Ind	60	Mobile, Ala	100
Terre Haute, Ind	65	New Orleans, La	100
La Fayette, Ind	70	Memphis, Tenn	100
Alton, Ill	80	Rives, Tenn	100

CINCINNATI, O., July 14, 1886.

L. A. COLE, Esq.,
Secy C. O. Oil Co., Parkersburgh, W. Va.:

DEAR SIR: I have not yet been able to arrange for rates, blind billing, etc., to all points that were considered at recent conference, but hope to have the list complete ere many days.

I give below list of points to which agent Parkersburgh has instructions to "blind bill" on and after July 15. The rates are the ones at which you must settle with the auditor.

To—	Tanks.	Barrels, car loads, 60 barrels.
Cincinnati, Ohio	\$19.00	<i>Cmts.</i> 25
Chicago, Ill.	25.00	50
Columbus, Ohio	21.25	25
Cleveland, Ohio	25.00	
Dayton, Ohio	25.00	
Indianapolis, Ind.	25.50	25
Louisville, Ky.	29.00	40
Jeffersonville, Ind.	29.00	40
New Albany, Ind.	30.00	40
East Saint Louis, Ill.	37.00	43½

I will advise agent Parkersburgh and yourself of changes and additions as necessary arrangements are completed.

Yours, respectfully,

R. M. FRASER, G. F. A.

(This is the first official list sent me.)

CINCINNATI, WASHINGTON AND BALTIMORE RAILROAD COMPANY,
Marietta, Ohio, August 23, 1886.

GEO. RICE, Esq.,

Rate on coal oil in car-loads from Marietta, Ohio, per barrel (car-load, 60 barrels) and over:

To—	Amount.	To—	Amount.	To—	Amount.
Cincinnati, Ohio	\$0.30	New Albany, Ind.	\$0.60	Henderson, Ky.	\$1.00
Cincinnati, Washington and Baltimore stations .....	.30	Plymouth, Ind. ....	.60	Owensborough, Ky.	1.00
Columbus, Ohio .....	.40	Terre Haute, Ind. ....	.65	Paducah, Ky.	1.20
Dayton, Ohio .....	.50	Lafayette, Ind. ....	.70	Jackson, Miss.	2.52
Gallipolis, Ohio .....	.40	Bloomington, Ill. ....	.90	Meridian, Miss.	2.50
Ironton, Ohio .....	.40	Cairo, Ill. ....	.90	Vicksburg, Miss.	1.57
Lancaster, Ohio .....	.40	Chicago, Ill. ....	.60	Mobile, Ala.	1.57
Springfield, Ohio .....	.50	Decatur, Ill. ....	.90	New Orleans, La.	1.57
Waverly, Ohio .....	.40	East Saint Louis, Ill. ....	.80	Memphis, Tenn.	1.37
Washington Court-House, Ohio .....	.40	Mattoon, Ill. ....	.90	Rives, Tenn.	1.57
Wilmingon, Ohio .....	.40	Peoria, Ill. ....	.90	Athens, Ohio, per tank	30.00
Evansville, Ind. ....	.90	Rock Island, Ill.	1.00	Winton Junction, Ohio, per tank	30.00
Fort Wayne, Ind. ....	.50	Springfield, Ill.	1.00	Cincinnati, Ohio, per tank	30.00
Indianapolis, Ind. ....	.50	Charleston, W. Va. ....	.40	Parkersburg, W. Va., per tank	10.00
Jeffersonville, Ind. ....	.60	Davenport, Iowa	1.24	Joliet, Ill. ....	.60
Logansport, Ind. ....	.65	Louisville, Ky. ....	.60	Fairfield, Ill. ....	.90
Muncie, Ind. ....	.60	Fulton, Ky.	1.57	Detroit, Mich. ....	.55
Milwaukee, Wis. ....	.80	Seima, Ala., from Cincinnati per 100 pounds .....	.50		

Respectfully,

W. W. LUCAS, Agent.

Less terminal charges at Parkersburg to the Camden Consolidated Oil Company of ——— per car, that Fraser swore to in the quo warranto suit in July last.

By Mr. GOWEN :

Q. Now, Mr. Rice, state whether the Camden Consolidated Company was one of the Standard Oil companies ?—A. Certainly.

Q. Have you made a list of your rates as compared with the Standard Oil rates ?—A. I have.

Q. In tanks and barrels for the Standard Oil Company, and in barrels for you, over a certain period ?—A. Yes, sir.

Q. State whether this is that statement. [Handing statement to witness.]—A. Yes, sir.

Q. Is it a statement of the difference between the rates of the Standard Oil Company and your rates ?—A. Yes, sir ; giving their rates and my rates. The rates to the Standard Oil Company are taken off of these exhibits. Some of these rates to the Camden Consolidated Company were developed in the quo warranto suits in Ohio which I was interested in.

Mr. GOWEN. I offer the list in evidence. It is as follows :

Statement of freight rates on coal oil (car-loads) over Cincinnati, Washington and Baltimore Railroad for Standard Oil Trust and George Rice from Parkersburg, W. Va., and Marietta, Ohio (tariff rates being the same from both points), to the following points:

To—	Standard Oil Trust.		George Rice.			
	Per tank car.	Barrels.	Car-loads, 40 barrels and over, July 16, 1898.	Previous to July 16, 1898, rate per barrel.	Increase in rate per barrel.	Percentage of increase.
New Orleans, La.....	\$18.00	\$1.00	\$1.57	\$1.00	\$0.57	57
Mobile, Ala.....	19.00	1.00	1.57	1.00	.57	57
Vicksburg, Miss.....	19.00	1.00	1.57	1.00	.57	57
Meridian, Miss.....	19.00	1.00	2.59	1.00	1.59	159
Jackson, Miss.....	79.00	1.00	2.52	1.00	1.52	152
Rives, Tenn.....			1.57	.95	.62	65.2
Fulton, Ky.....			1.57	.90	.67	74.4
Cairo, Ill.....	55.00	.65	.90	.80	.10	12.5
Davenport, Iowa.....			1.24	.80	.44	55
Memphis, Tenn.....	54.00	.75	1.27	.75	.52	69.3
Harriston, Miss.....			2.02	1.00	1.02	102
Natchez, Miss.....			1.68	1.10	.58	53
Jackson, Tenn.....			2.00	1.40	.60	43
Fairfield, Ill.....			.90	.80	.10	12.5
Olney, Ill.....			.90	.80	.10	12.5
Selma, Ala., to Cincinnati 20, from Cincinnati to Selma, 50 cents per 100.....			2.05	1.50	1.16	77.5

All these rates to the Standard Oil Trust continued in force to April 5, 1887, over the Cincinnati, Washington and Baltimore Railroad, and beyond Cincinnati until April 1, 1888.

	Standard.		Rice.			
	Per tank car.	Barrels.	Car-load, 60 barrels and over, July 15, 1886.	Previous to July 15, 1886, rate per barrel.	Increase in rate per barrel.	Percentage of increase.
From Marietta, Ohio, and Parkersburgh, W. Va., to—						
Paducah, Ky.			\$1.20	\$0.85	\$0.35	41.1
East Saint Louis, Ill.	\$38.00	\$0.48	.80	.80	.20	33 1/3
La Fayette, Ind.	40.50	.55	.70	.53	.17	32
Jeffersonville, Ind.	29.00	.40	.60	.48	.12	25
Logansport, Ind.			.65	.53	.12	22 1/2
Evansville, Ind.	45.50	.70	.90	.80	.10	50
Terre Haute, Ind.	32.36	.38	.65	.55	.10	18.1
George Rice	30.00					
Cincinnati, Ohio	19.00	.24		.25	.06	20
Cincinnati, 60 barrels.						
Dayton, Ohio	24.00	.30	.50	.45	.05	11.1
Springfield, Ohio	21.25	.25	.50	.45	.05	11.1
New Albany, Ind.	30.00	.40	.60	.55	.05	9
Decatur, Ill.			.90	.84	.06	7
Peoria, Ill.	44.33	.556	.90	.75	.15	20
Rock Island, Ill.			1.00	.80	.20	25
Springfield, Ill.	59.57	.70	1.00	.90	.10	11.1
Louisville, Ky.	29.00	.45	.60	.55	.05	9
Henderson, Ky.			1.00	.85	.15	17 1/2
Owensborough, Ky.			1.00	.85	.15	17 1/2
Athens, O.		.25	.30	.25	.05	20
Indianapolis, Ind.	25.50	.30	.50	.48	.02	4.1
Grenada, Miss.			2.27	1.53	.74	48
Aberdeen, Miss.			2.98	2.40	.58	24
Columbus, Miss.			2.98	2.40	.58	24
Chicago, Ill.	30.30	.3366	.60	.60		
Columbus, Ohio	21.25	.25	.40	.40		
Fort Wayne, Ind.	26.35	.40	.50	.50		
Muncie, Ind.		.50	.60			
Bloomington, Ill.	43.35	.51	.90			
Lancaster, Ohio		.25	.40	.40		
Waverley, Ohio		.30	.40	.40		
Washington Court-House, Ohio		.30	.40	.40		
Wilmington, Ohio		.30	.40	.40		
Cincinnati, Washington and Baltimore stations except Cincinnati	19.00	.25	.30	.30		
Te George Rice tank car	30.00					

* Car-load, 100 barrels.

By Mr. SMITH:

Q. That was in 1886, was it not?—A. Yes, sir; showing changes made at that time.

By Mr. GOWEN:

Q. Without going into the details of the range of percentage, were your rates greater than those of the Standard Oil Company?—A. My rates were advanced from 10 to 160 per cent., and the rates to the Standard Oil Company were not advanced at all.

Q. Your rates were advanced 10 to 160 per cent. to various points and there was no change in the rates to the Standard at all?—A. No, sir.

Q. Will you look at this statement and tell me what that list of rates is?—A. This is a tariff sheet issued by the Queen and Crescent route, issued December 1, 1867.

Q. And the statement connected with it?—A. That is the statement showing discrimination as between my rates and the Standard Oil rates, pound for pound.

Q. This comprises the rates on oil, pound for pound, and assuming the correctness of the weight of the barrels?—A. Yes, sir; certainly.

Q. Is that statement correct?—A. Certainly; it is correct.

Mr. GOWEN. I offer that in evidence also. The statement is as follows:

Comparative statement showing Cincinnati, New Orleans and Texas Pacific Railway rates, pound for pound, charged George Roe and Standard Oil Trust, and the discrimination.

[Tanks and barrels reduced to an equivalent.]

Cincinnati to—	Charged George Roe.		Charged Standard Oil Trust.		Discrimination in.	
	Per 100 pounds.	Per barrel of 400 pounds.	Per 100 pounds.	Barrel equivalent to 400 pounds.	Per barrel.	Percentage.
	<i>Cents.</i>		<i>Cents.</i>			
Atlanta, Ga.....	46	\$1.84	18.4	\$0.736	\$1.104	159
Augusta, Ga.....	46	1.84	20.5	.82	1.02	126
Birmingham, Ala.....	47	1.88	17.9	.716	1.164	163
Chattanooga, Tenn.....	33	1.32	12.4	.496	.824	105
Knoxville, Tenn.....	33	1.33	14.4	.496	.834	106
Lexington, Ky.....	10	.40	7.7	.308	.692	39
Macon, Ga.....	46	1.84	19.8	.792	1.048	133
Meridian, Miss.....	56	2.24	17.9	.716	1.524	212
Monroe, La.....	72	2.88	26.8	1.072	1.808	168
New Orleans, La.....	39	1.56	17.9	.716	.844	117
Shreveport, La.....	64	2.56	26.8	1.072	1.488	138
Vicksburg, Miss.....	39	1.56	17.9	.716	.844	117

DECEMBER 1, 1887.

Capacity of tanks 103 barrels, as proven before Interstate Commerce Commission.

Q. Just roughly state what percentage of discriminations against you are shown by that statement.—A. The lowest discrimination shown here is 29 per cent., and running up to 212 per cent.

Q. Against you?—A. Yes, sir; against me. That is calculated pound for pound, and this was done December 1, 1887, while the Interstate Commerce Act was in force.

By the CHAIRMAN:

Q. Is the discrimination shown there irrespective of the question whether the oil was shipped in barrels or tanks?—A. Yes, sir; it is a comparison of barrels against tanks, pound for pound.

By Mr. GOWEN:

Q. Look at that statement [handing statement to witness] and state what it is.—A. This is a statement made up from the evidence that was developed before the Interstate Commerce Commission.

Q. In what case before the Commission?—A. In the several cases I had before it.

Q. Cases in which you were plaintiff against other roads?—A. Yes, sir. This is a comparison, by what was developed by the evidence there, based on pound for pound, instead of gallon for gallon. I was contending that they ought to carry a gallon of oil for me as cheaply as if it was in a tank, but the court did not concede that. They only decided that it should be carried the same, pound for pound.

Q. Do you know those figures to be correct?—A. Yes, sir; showing the discriminations made by the Louisville and Nashville Railroad, the Saint Louis, Iron Mountain and Southern Railroad, and the Newport News and Mississippi Valley Railroad. These figures are merely samples of the rates on those three roads.

Mr. GOWEN. I offer these three papers in evidence; one a comparative statement showing the Louisville and Nashville rates, one showing the Saint Louis, Iron Mountain and Southern rates, and one Newport News and Mississippi Valley rates. The statements are as follows:

Comparative statement showing Louisville and Nashville Railway rates as charged Standard Oil Trust and George Rice, and the discrimination.

[Tanks and barrels reduced to an equivalent, pound for pound.]

Louisville to—	Mills per gallon charged Standard Oil Trust.	Mills per gallon charged Geo. Rice.	Per cent. discrimination.
Nashville, Tenn.....	8.6	15	74
Chattanooga, Tenn.....	12.1	19.5	61
Memphis, Tenn.....	7	12	71
Atlanta, Ga.....	19.4	36.8	89
Selma, Ala.....	18.5	36.5	97
Montgomery, Ala.....	16.7	36.5	118
Mobile, Ala.....	17.7	24	35
Columbus, Ga.....	21.7	46.9	88
Augusta, Ga.....	19.9	35.1	76
Pensacola, Fla.....	16.6	24	44

FEBRUARY 1, 1888.

Capacity of tanks shipped to each place as proven before Interstate Commerce Commission.

Comparative statement showing Louisville and Nashville Railway rates as charged Standard Oil Trust and George Rice, and the discrimination.

[Tanks and barrels reduced to an equivalent, pound for pound.]

Cincinnati to—	Mills per gallon charged Standard Oil Trust.	Mills per gallon charged Geo. Rice.	Per cent. discrimination.
Birmingham, Ala.....	13.1	47.2	269

FEBRUARY 1, 1888.

Capacity of tanks as proven before Interstate Commerce Commission in shipments to Birmingham.

Comparative statement showing Saint Louis, Iron Mountain and Southern Railway rates as charged Standard Oil Trust and George Rice, and the discrimination.

[Tanks and barrels reduced to an equivalent, pound for pound.]

Saint Louis to—	Mills per gallon charged Standard Oil Trust.	Mills per gallon charged Geo. Rice.	Per cent. discrimination.
Houston, Texas.....	18.4	58.6	191
Galveston, Texas.....	18.4	58.6	191
Little Rock, Ark.....	12.8	18.2	48
Newport, Ark.....	12.8	18.2	48

FEBRUARY 1, 1888.

Capacity of tanks shipped to each place as given to Interstate Commerce Commission.

Comparative statement showing Newport News and Mississippi Valley Company's rates as charged Standard Oil Trust and George Rice, and the discrimination.

[Tanks and barrels reduced to an equivalent, pound for pound.]

Louisville to—	Mills per gal- lon charged Standard Oil Trust.	Mills per gal- lon charged Geo. Rice.	Per cent dis- crimination.
Memphis, Tenn.....	5.4	69	69
New Orleans, La.....	11.9	15	26
Vicksburg, Miss.....	12.1	15	14½

FEBRUARY 1, 1888.

Capacity of tanks shipped to each place as proven before the Interstate Commerce Commission.

Q. Please look at those two bills [handing bills to witness] and state what they are?—A. This one [indicating] is an expense bill over the Cincinnati, New Orleans and Texas Pacific, dated November 28, 1887.

Q. And the other?—A. Over the same line to Knoxville, Tenn.

Q. What do they show?—A. They show overcharges over and above the tariff rates.

Q. You mean to say that in those two instances they sent you a bill for more than their regular tariff rates?—A. Yes, sir.

Q. Now state what the regular tariff rate was?—A. Thirty-three cents per hundred.

Q. And what did they charge?—A. Forty-one and one-tenth.

Q. Now, in the other case?—A. Regular tariff 33 cents, and charged 42.65.

Q. State whether that money was refunded?—A. No, sir.

Q. Have you made any claim for it?—A. We have made claim, but it is very hard to get claims paid. There is always great delay, and in some cases we have been three or four years trying to get claims settled.

Q. Look at these four papers [handing papers to witness] and state what they are.—A. These are expense bills on the Louisville and Nashville.

Q. Give the dates; take the first one.—A. November 24, 1887, is the one I am looking at now. I think it is the first one.

Q. Does that show a charge made to you higher than tariff rates?—A. This shows a rate that I paid from Louisville to Huntsville, Ala., of 44.9 cents per 100 pounds, when the tariff rate was at one time 37 cents per 100 and at another time 35, but the highest was 37; and yet they charged me 44.9 cents.

Q. What was the regular tariff rate at that time?—A. In a letter to me, dated December 27, Mr. Culp states it at 37 cents. In January 25, 1888, he states it at 35 cents.

Q. Now take up the other paper?—A. This is an expense bill, dated December 4, 1887, shipment of 64 barrels from Marietta to Birmingham.

Q. What charge was made there?—A. Fifty-nine cents per 100 pounds.

Q. What was the tariff rate at that time?—A. The tariff sheet shows a rate of 30 cents per 100 pounds, Louisville to Birmingham, and to that was added 8 cents between Louisville and Cincinnati, making 38 cents.

Q. By what company?—A. Louisville and Nashville.

Q. On shipments made by you?—A. Certainly.

Q. Now take the third of those papers and describe it.—A. It is dated November 12, 1887, and shows a shipment of 64 barrels from Marietta to Chattanooga. I was charged 42.8 cents, as against 24.4 cents which I had been paying, and which I supposed was their tariff rate.

Q. Now take the last.—A. It is dated December 29, 1887.

Q. Describe it.—A. It shows a shipment of 70 barrels of oil to my agent J. M. Gaut, at Knoxville; in which the rate charged is 31.8 cents as against 24.4.

Q. Was 24.4 the tariff rate?—A. It was the rate I had been shipping on.

Q. They had been giving you such a rate?—A. Certainly.

By the CHAIRMAN:

Q. What is the rate at which that shipment is charged?—A. Thirty-one and eight-tenths cents; it figures out 31.8. But I had been shipping at 24.4, and they raised the rate afterwards to 40 cents.

Q. What do you know about the subject of billing Standard Oil Company tank cars at a fixed rate?—A. As was developed in the *quo warranto* proceeding in Ohio, oil in tank cars was billed at an estimated weight of 20,000 pounds per tank on the Cincinnati, Washington and Baltimore road, and on the Cincinnati Southern, that is, the Cincinnati, New Orleans and Texas Pacific, at 25,000 pounds. Cincinnati, Washington and Baltimore estimated the weight at 20,000 pounds per tank car, while the Cincinnati Southern estimated it 25,000.

Q. State, so that the committee will understand what you mean by "blind billing"?—A. I mean it does not show any rate. The agents merely estimated the capacity of the tank cars at 20,000 pounds.

Q. That is, they would bill a tank through at 20,000 pounds, without putting any rate on it?—A. Yes, sir; no rate whatever.

Q. If they had a fixed rate per tank on the through route, and it was billed at 20,000 pounds, another line in the through route that might have a rate per hundred pounds would be deceived if they took that way-bill weight as the true weight, would they not?—A. Of course. It did not make any difference to the road where it started, but where it reached another road on which they charged per hundred pounds, of course it made a difference. I have here a circular showing the capacity of tank cars.

Q. What circular is that?—A. It is the tank car circular sent to me by two different lines.

Q. Railroad lines?—A. Yes, sir; we got this tariff sheet in two or three instances, and particularly, I know, from the Chicago, Burlington and Quincy.

Q. Do you call it a tariff sheet?—A. I do not mean a tariff sheet. It is a circular, dated June 1, 1887, giving the capacity of oil tank cars.

Q. How many tank cars are there of the Union Tank Line on that list? That is the Standard Oil Tank Line, is it not?—A. Yes, sir; the first number is 870, and the last number is 3,815. That would make about 3,000 cars belonging to the Union Tank Line.

Q. Now, of those nearly 3,000 cars on that circular how many of them weighed 20,000 pounds?—A. Only two of them are given here.

Q. And those are marked as weighing exactly 20,000 pounds?—A. Yes, sir.

Q. Round numbers?—A. Yes, sir.

Q. How much is the highest?—A. The highest is 40,670 pounds.

Q. And there are a great many running about 28,000, 32,000, and 38,000?—A. Oh, yes; several hundred of them run over 30,000.

Mr. GOWEN. I offer that circular in evidence. It is as follows:

[Joint tank-line circular No. 5, canceling joint tank-line circular No. 4, dated April 1, 1887, and supplement No. 1, dated May 1, 1887.]

Capacity of oil-tank cars.

Burlington, Cedar Rapids and Northern Rwy.	Chicago and Northwestern Rwy.	Minnesota and Northwestern R. R.
Central Iowa Rwy.	Chicago, Rock Island and Pacific Rwy.	Missouri Pacific Rwy.
Chicago and Alton R. R.	Chicago, Saint Paul, Minneapolis and Omaha Rwy.	Rock Island and Peoria Rwy.
Chicago, Burlington and Kansas City Rwy.	Des Moines and Fort Dodge R. R.	Saint Louis, Keokuk and Northwestern Rwy.
Chicago, Burlington and Northern R. R.	Hannibal and Saint Joseph R. R.	Saint Louis and San Francisco Rwy.
Chicago, Burlington and Quincy R. R.	Illinois Central R. R.	Siox City and Pacific R. R.
Chicago, Iowa and Dakota Rwy.	Kansas City, Saint Joseph and Council Bluffs R. R.	Wabash Rwy.
Chicago, Milwaukee and Saint Paul Rwy.	Minneapolis and Saint Louis Rwy.	Wabash Western Rwy.
		Wisconsin Central Line.

[This circular is not issued for the information or use of the public, but solely for the inspection and direction of the employes of the roads above named.]

CHICAGO, June 1, 1887.

CAPACITY OF OIL-TANK CARS.

Taking effect this date, all shipments of coal, carbon or lubricating oils, benzine, benzole, gasoline or nophtha, forwarded in cylinder tank cars or box tank cars, will be charged for at the weights shown herein:

UNION TANK LINE CARS.

[Capacity is given in pounds.]

No.	Capacity.	No.	Capacity.	No.	Capacity.	No.	Capacity.
870		954		1039		1066	
876	40,660	955	39,810	1040	39,680	1067	39,630
877		956		1041	39,620	1068	39,600
879	40,670	960	39,850	1042	39,470	1069	39,730
880		961		1043		1090	
882	39,690	962	39,790	1045	39,590	1093	39,610
883	39,600	963		1046	39,640	1094	39,780
884	39,700	976	39,590	1047	39,610	1095	
885		977		1048		1096	39,590
886	39,590	990	39,550	1049	39,690	1097	39,690
887	39,700	981		1050		1098	
908		983	39,620	1051	39,590	1100	39,690
911	39,600	984		1057		1101	39,690
912	39,640	987	39,550	1058	39,640	1102	
913	39,610	988		1059	39,600	1111	39,690
914	39,640	991	39,840	1060	39,640	1112	
915		992		1061		1116	39,690
916	39,570	996	39,790	1062	39,570	1117	39,630
925		997		1063		1118	
926	39,610	998	39,850	1064	39,800	1119	39,790
932		999		1065	39,840	1130	40,000
933	39,590	1000	39,900	1066	39,720	1121	39,810
934		1001	39,830	1067	39,820	1122	39,790
935	39,640	1002		1068		1123	39,630
936	39,600	1005	39,780	1072	39,760	1124	39,810
937	39,940	1006		1073	39,830	1125	
938		1007	39,830	1074		1127	39,870
942	39,840	1008	39,790	1076	39,780	1128	39,770
943	39,810	1009		1077	39,890	1129	
944		1010	39,860	1078	39,780	1130	39,940
947	39,870	1011		1079	39,830	1131	
948	39,850	1012	39,780	1080	39,800	1132	39,730
949		1013		1081	39,830	1133	39,890
950	39,840	1020	39,570	1082	39,770	1134	39,850
951	39,750	1031		1083		1135	
952	39,840	1032	39,590	1085	39,810	1136	39,940
958		1038				1137	39,750

UNION TANK LINE CARS—Continued.

Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.
1188	39,840	1277	39,810	1400	39,810	1763	29,970
1189	39,790	1292	33,410	1401	39,840	1764	29,510
1140	39,830	1293	33,430	1403	39,810	1770	29,980
1141	39,800	1294	33,340	1404	39,840	1771	29,540
1142	39,890	1295	33,400	1405	39,810	1772	29,540
1143	39,890	1296	33,530	1407	39,830	1825	29,540
1144	39,790	1297	33,540	1408	39,810	1828	29,520
1145	40,000	1298	39,810	1410	39,830	1841	29,510
1146	39,820	1299	39,820	1411	39,810	1858	29,530
1147	39,970	1300	39,830	1412	39,860	1862	29,540
1148	39,880	1301	39,860	1413	39,770	1871	29,520
1149	39,800	1302	39,810	1415	39,800	1876	29,520
1150	39,850	1303	39,810	1416	39,770	1878	29,520
1151	39,850	1304	39,810	1417	39,850	1886	29,530
1152	39,850	1305	39,810	1418	39,790	1889	29,530
1159	39,790	1308	39,850	1419	39,820	1894	25,230
1160	39,840	1309	39,850	1420	39,780	1895	25,060
1161	39,810	1310	39,850	1421	39,780	1896	25,220
1162	39,810	1311	39,900	1425	39,770	1901	25,250
1163	39,850	1313	39,840	1426	39,830	1902	25,030
1164	39,850	1314	39,840	1427	39,830	1903	25,030
1165	39,810	1315	39,840	1432	39,750	1904	25,010
1166	39,830	1316	39,810	1433	33,300	1906	24,950
1167	39,830	1317	39,810	1434	33,340	1917	24,860
1168	39,710	1318	39,810	1442	33,280	1923	24,900
1169	39,790	1319	39,810	1443	33,280	1925	24,910
1170	39,920	1325	39,810	1444	33,280	1937	25,570
1171	39,920	1326	39,810	1449	33,320	1938	25,080
1172	39,780	1327	39,810	1450	33,270	1939	25,850
1173	39,830	1331	39,810	1451	33,380	1941	25,450
1184	39,830	1332	39,810	1455	33,380	1942	25,190
1185	39,750	1333	39,810	1456	33,290	1943	23,590
1190	39,630	1334	39,790	1457	33,290	1944	26,140
1191	39,750	1335	39,850	1459	33,300	1945	29,570
1192	39,870	1336	39,770	1460	33,380	1946	23,690
1194	39,980	1337	39,840	1461	33,270	1947	24,870
1195	39,770	1340	39,840	1468	33,380	1948	25,220
1196	39,840	1341	39,840	1470	33,270	1949	25,180
1197	39,830	1344	39,840	1476	33,380	1950	25,100
1198	39,830	1345	39,840	1477	33,380	1951	25,170
1199	39,740	1346	39,840	1479	33,290	1952	24,920
1200	39,810	1347	39,840	1491	33,290	1953	25,990
1201	39,810	1348	39,840	1492	33,300	1954	24,890
1202	39,850	1350	39,840	1493	33,300	1955	25,240
1203	39,850	1351	39,840	1494	33,300	1956	25,120
1204	39,780	1355	39,840	1495	33,350	1957	24,900
1205	39,840	1356	39,790	1496	33,350	1958	25,160
1206	39,770	1357	39,740	1499	33,450	1961	29,530
1207	39,770	1358	39,850	1500	33,350	1962	25,960
1208	39,830	1359	39,850	1501	33,350	1963	25,190
1209	39,830	1360	39,850	1502	33,350	1964	25,320
1210	39,790	1362	39,850	1503	33,350	1965	25,030
1211	39,790	1363	39,850	1504	33,350	1966	25,000
1212	39,770	1364	39,850	1505	33,350	1967	24,900
1213	39,600	1367	39,850	1506	33,350	1968	35,170
1214	39,760	1368	39,850	1507	33,350	1969	24,890
1215	39,580	1369	39,850	1508	33,350	1970	29,400
1216	39,640	1370	39,850	1509	33,350	1971	25,190
1217	39,580	1372	39,850	1510	33,350	1972	25,080
1218	39,640	1373	39,850	1511	33,350	1973	25,160
1219	39,580	1374	39,850	1512	33,350	1974	25,650
1220	39,680	1375	39,850	1513	33,350	1975	25,990
1221	39,710	1376	39,850	1514	33,350	1976	24,990
1222	39,680	1377	39,850	1515	33,350	1977	24,990
1223	39,680	1378	39,850	1516	33,350	1978	24,990
1224	39,680	1379	39,850	1517	33,350	1979	24,990
1225	39,680	1380	39,850	1518	33,350	1980	24,990
1226	39,680	1381	39,850	1519	33,350	1981	24,990
1227	39,680	1382	39,850	1520	33,350	1982	24,990
1228	39,680	1383	39,850	1521	33,350	1983	24,990
1229	39,680	1384	39,850	1522	33,350	1984	24,990
1230	39,680	1385	39,850	1523	33,350	1985	24,990
1231	39,680	1386	39,850	1524	33,350	1986	24,990
1232	39,680	1387	39,850	1525	33,350	1987	24,990
1233	39,680	1388	39,850	1526	33,350	1988	24,990
1234	39,680	1389	39,850	1527	33,350	1989	24,990
1235	39,680	1390	39,850	1528	33,350	1990	24,990
1236	39,680	1391	39,850	1529	33,350	1991	24,990
1237	39,680	1392	39,850	1530	33,350	1992	24,990
1238	39,680	1393	39,850	1531	33,350	1993	24,990
1239	39,680	1394	39,850	1532	33,350	1994	24,990
1240	39,680	1395	39,850	1533	33,350	1995	24,990
1241	39,680	1396	39,850	1534	33,350	1996	24,990
1242	39,680	1397	39,850	1535	33,350	1997	24,990
1243	39,680	1398	39,850	1536	33,350	1998	24,990
1244	39,680	1399	39,850	1537	33,350	1999	24,990
1245	39,680	1400	39,850	1538	33,350	2000	24,990

UNION TANK LINE CARS—Continued.

Noa.	Capacity.	Noa.	Capacity.	Noa.	Capacity.	Noa.	Capacity.
1983	29,430	2097	25,720	2199	26,370	2414	29,980
1984	29,360	2099	24,830	2200	29,580	2417	29,970
1985	25,970	2100	26,080	2201	26,300	2418	29,990
1986	25,970	2101	26,190	2202	25,110	2421	29,970
1987	25,990	2102	26,100	2204	28,870	2422	29,970
1988	26,910	2103	26,150	2205	25,290	2423	30,010
1989	25,990	2104	26,200	2206	25,340	2424	29,980
1991	26,180	2106	25,710	2207	25,290	2425	29,970
1992	29,530	2108	26,140	2208	29,490	2426	29,980
1993	25,320	2109	26,190	2209	29,410	2427	30,000
1995	24,880	2111	26,090	2210	29,500	2428	29,970
1996	25,230	2112	26,100	2211	26,080	2429	29,980
1997	25,360	2113	26,130	2212	26,900	2430	29,970
1998	25,310	2114	26,170	2213	26,040	2432	30,030
1999	26,050	2115	26,120	2216	26,180	2433	29,970
2000	26,060	2117	26,170	2218	26,120	2434	30,000
2001	25,000	2118	26,180	2222	26,130	2435	29,980
2002	26,080	2119	26,290	2227	26,170	2436	29,980
2003	24,960	2121	26,170	2228	26,130	2438	29,980
2004	26,080	2123	26,200	2250	26,130	2440	29,980
2005	26,080	2125	26,170	2251	26,130	2441	29,980
2006	26,080	2127	26,170	2253	26,130	2442	29,980
2010	26,040	2128	26,170	2254	26,130	2443	29,980
2011	26,040	2129	26,170	2255	26,130	2444	29,980
2015	26,040	2130	26,170	2256	26,130	2445	29,980
2016	26,040	2131	26,170	2257	26,130	2446	29,980
2017	26,040	2132	26,170	2260	26,130	2447	29,980
2019	26,040	2133	26,170	2261	26,130	2448	29,980
2020	26,040	2134	26,170	2263	26,130	2449	29,980
2022	26,040	2135	26,170	2271	26,130	2450	29,980
2023	26,040	2136	26,170	2272	26,130	2452	29,980
2024	26,040	2137	26,170	2273	26,130	2453	29,980
2025	26,040	2138	26,170	2274	26,130	2454	29,980
2027	26,040	2139	26,170	2275	26,130	2455	29,980
2028	26,040	2140	26,170	2276	26,130	2456	29,980
2031	26,040	2141	26,170	2277	26,130	2457	29,980
2032	26,040	2142	26,170	2278	26,130	2458	29,980
2033	26,040	2143	26,170	2279	26,130	2459	29,980
2034	26,040	2144	26,170	2285	26,130	2460	29,980
2036	26,040	2145	26,170	2287	26,130	2461	29,980
2037	26,040	2147	26,170	2289	26,130	2462	29,980
2038	26,040	2149	26,170	2290	26,130	2463	29,980
2041	26,040	2150	26,170	2291	26,130	2464	29,980
2043	26,040	2151	26,170	2292	26,130	2465	29,980
2045	26,040	2152	26,170	2294	26,130	2466	29,980
2046	26,040	2153	26,170	2295	26,130	2467	29,980
2047	26,040	2154	26,170	2300	26,130	2468	29,980
2048	26,040	2155	26,170	2301	26,130	2469	29,980
2049	26,040	2157	26,170	2302	26,130	2470	29,980
2050	26,040	2161	26,170	2303	26,130	2471	29,980
2051	26,040	2162	26,170	2304	26,130	2472	29,980
2052	26,040	2164	26,170	2305	26,130	2473	29,980
2054	26,040	2165	26,170	2306	26,130	2474	29,980
2055	26,040	2166	26,170	2307	26,130	2475	29,980
2056	26,040	2167	26,170	2308	26,130	2476	29,980
2057	26,040	2168	26,170	2309	26,130	2477	29,980
2061	26,040	2170	26,170	2311	26,130	2478	29,980
2062	26,040	2171	26,170	2312	26,130	2479	29,980
2063	26,040	2172	26,170	2313	26,130	2480	29,980
2064	26,040	2175	26,170	2314	26,130	2481	29,980
2065	26,040	2176	26,170	2315	26,130	2482	29,980
2066	26,040	2177	26,170	2316	26,130	2483	29,980
2067	26,040	2179	26,170	2317	26,130	2484	29,980
2068	26,040	2180	26,170	2318	26,130	2485	29,980
2069	26,040	2181	26,170	2319	26,130	2486	29,980
2073	26,040	2182	26,170	2320	26,130	2487	29,980
2074	26,040	2183	26,170	2321	26,130	2488	29,980
2075	26,040	2185	26,170	2322	26,130	2489	29,980
2077	26,040	2186	26,170	2323	26,130	2490	29,980
2078	26,040	2187	26,170	2324	26,130	2491	29,980
2079	26,040	2188	26,170	2325	26,130	2492	29,980
2082	26,040	2190	26,170	2326	26,130	2493	29,980
2086	26,040	2191	26,170	2327	26,130	2494	29,980
2087	26,040	2192	26,170	2328	26,130	2495	29,980
2088	26,040	2193	26,170	2329	26,130	2496	29,980
2089	26,040	2194	26,170	2330	26,130	2497	29,980
2091	26,040	2195	26,170	2331	26,130	2498	29,980
2093	26,040	2196	26,170	2332	26,130	2499	29,980
2094	26,040	2197	26,170	2333	26,130	2500	29,980
2095	26,040	2198	26,170	2334	26,130	2501	29,980

UNION TANK LINE CARS—Continued.

No.	Capacity.	No.	Capacity.	No.	Capacity.	No.	Capacity.
2524	29, 380	2653	29, 400	2782	29, 470	2886	32, 560
2535	29, 410	2667	29, 410	2783	25, 150	2887	32, 180
2537	29, 380	2656	29, 410	2786	25, 110	2888	32, 980
2539	29, 400	2659	29, 400	2787	24, 050	2889	32, 880
2540	29, 380	2660	29, 510	2788	29, 510	2892	32, 910
2543	29, 380	2661	29, 510	2789	24, 100	2893	34, 520
2544	29, 380	2662	29, 510	2790	29, 500	2894	32, 860
2545	29, 380	2663	29, 410	2791	25, 150	2895	32, 910
2547	29, 360	2669	29, 410	2793	28, 900	2896	32, 900
2549	29, 400	2670	29, 370	2794	24, 150	2897	32, 910
2550	29, 390	2671	29, 400	2795	25, 540	2898	32, 890
2551	29, 400	2673	29, 350	2796	24, 110	2899	32, 950
2552	29, 390	2674	29, 410	2797	29, 540	2900	32, 930
2553	29, 410	2675	29, 380	2798	24, 920	2907	32, 870
2554	29, 420	2676	29, 410	2800	24, 900	2908	32, 920
2555	29, 410	2678	29, 380	2801	24, 900	2909	32, 920
2556	29, 410	2679	29, 410	2802	25, 630	2917	32, 860
2557	29, 410	2681	29, 410	2803	25, 630	2918	32, 940
2559	29, 430	2682	29, 380	2804	27, 120	2919	32, 830
2560	29, 400	2683	29, 430	2806	24, 210	2927	32, 830
2561	29, 410	2684	29, 410	2807	24, 240	2928	32, 960
2563	29, 380	2685	29, 380	2809	25, 190	2929	32, 960
2564	29, 380	2686	29, 430	2811	29, 530	2936	32, 920
2565	29, 400	2688	29, 430	2812	23, 720	2937	32, 830
2566	29, 400	2689	29, 430	2813	25, 050	2938	32, 980
2568	29, 380	2690	29, 430	2814	25, 160	2939	32, 830
2569	29, 380	2691	29, 410	2815	23, 530	2941	32, 910
2570	29, 400	2692	29, 410	2816	26, 000	2942	32, 870
2571	29, 370	2693	29, 410	2818	25, 160	2950	32, 860
2572	29, 370	2694	29, 420	2819	23, 730	2951	32, 920
2573	29, 410	2697	29, 410	2820	26, 000	2959	32, 840
2574	29, 410	2698	29, 420	2821	25, 160	2962	34, 580
2575	29, 380	2699	29, 410	2822	23, 530	2967	32, 830
2576	29, 380	2700	29, 410	2824	26, 000	2976	32, 930
2578	29, 410	2701	29, 410	2825	25, 160	2977	32, 870
2579	29, 410	2733	29, 410	2826	25, 160	2978	32, 860
2580	29, 390	2735	25, 320	2827	23, 730	2979	32, 920
2581	29, 410	2737	24, 900	2829	24, 900	2980	32, 860
2582	24, 570	2738	25, 290	2830	25, 590	2988	32, 920
2583	29, 370	2740	25, 240	2831	27, 040	2989	32, 860
2584	29, 420	2742	23, 480	2832	23, 400	2990	34, 550
2585	29, 410	2743	23, 480	2833	23, 400	2992	32, 860
2586	29, 430	2744	23, 480	2834	28, 920	2993	32, 850
2587	29, 440	2745	23, 480	2835	24, 900	3000	32, 950
2588	29, 410	2746	25, 120	2837	27, 260	3001	32, 920
2589	29, 430	2747	24, 900	2839	23, 400	3004	33, 020
2590	29, 430	2748	25, 060	2841	28, 920	3005	32, 980
2591	29, 390	2749	23, 780	2842	25, 190	3011	32, 980
2592	29, 410	2750	27, 110	2844	29, 530	3013	32, 930
2593	29, 410	2751	23, 960	2845	26, 480	3015	32, 970
2594	29, 400	2752	23, 960	2847	23, 400	3016	32, 890
2597	29, 450	2753	25, 180	2848	25, 000	3017	32, 920
2598	29, 430	2754	23, 960	2850	25, 970	3018	32, 990
2599	29, 360	2755	23, 480	2851	25, 220	3019	32, 970
2600	29, 360	2756	25, 700	2852	24, 880	3021	32, 900
2601	29, 560	2757	23, 480	2853	23, 520	3022	33, 030
2612	29, 960	2758	29, 520	2854	26, 000	3023	32, 970
2613	29, 960	2759	25, 050	2855	23, 400	3024	32, 840
2614	29, 570	2760	24, 900	2856	25, 970	3025	32, 900
2619	29, 890	2761	24, 050	2858	25, 190	3026	33, 040
2620	29, 890	2762	80, 020	2859	23, 270	3027	33, 070
2621	29, 510	2763	29, 540	2860	25, 190	3043	33, 000
2622	29, 410	2764	24, 250	2864	23, 650	3051	32, 980
2624	29, 430	2765	24, 050	2865	25, 050	3055	32, 980
2625	29, 300	2766	24, 050	2866	23, 400	3056	33, 040
2626	29, 300	2767	24, 050	2867	23, 400	3057	33, 040
2627	29, 440	2768	29, 500	2868	23, 400	3058	33, 040
2629	29, 440	2769	25, 490	2870	23, 400	3059	33, 040
2632	29, 430	2770	23, 400	2871	23, 400	3060	33, 040
2633	29, 430	2771	25, 810	2872	23, 400	3061	33, 040
2635	29, 580	2772	24, 960	2873	23, 400	3062	33, 040
2636	29, 450	2773	28, 950	2875	25, 190	3063	33, 040
2639	29, 450	2774	26, 000	2876	23, 270	3064	33, 040
2642	29, 450	2775	24, 890	2877	25, 190	3065	33, 040
2643	29, 770	2776	23, 720	2878	23, 270	3066	33, 040
2644	29, 770	2777	25, 220	2879	23, 650	3067	33, 040
2645	29, 460	2778	25, 060	2881	25, 050	3068	33, 040
2650	29, 460	2779	24, 900	2883	23, 590	3069	33, 040
2651	29, 410	2780	28, 930	2884	23, 400	3070	33, 040
2652	29, 410	2781	25, 180	2885	25, 640	3071	33, 040

UNION TANK LINE CARS—Continued.

No.	Capacity.	No.	Capacity.	No.	Capacity.	No.	Capacity.
3064	32,900	3175	23,700	3302	25,210	3412	24,850
3065	33,030	3177	23,720	3303	25,140	3413	25,170
3067	33,050	3179	25,120	3306	25,160	3416	24,900
3087	25,880	3181	24,860	3308	25,320	3417	25,420
3088	25,890	3182	24,290	3311	25,440	3418	25,170
3089	27,270	3183	24,200	3313	25,270	3419	24,820
3090	29,560	3184	24,900	3316	24,890	3420	24,820
3091	29,580	3185	25,370	3323	25,220	3421	24,820
3092	29,740	3186	25,440	3327	25,090	3422	24,820
3094	29,580	3187	25,090	3335	24,860	3424	24,820
3095	29,580	3189	25,450	3337	24,900	3425	24,820
3096	29,450	3191	25,450	3338	25,220	3426	24,820
3097	29,450	3195	25,450	3340	25,090	3427	24,820
3098	29,150	3196	25,450	3341	24,900	3428	24,820
3099	29,430	3198	25,450	3342	25,150	3429	24,820
3100	29,450	3200	25,450	3343	24,900	3431	24,820
3101	29,390	3201	25,450	3344	25,610	3432	24,820
3102	29,460	3202	25,450	3345	24,840	3433	24,820
3103	25,180	3203	25,450	3346	25,660	3434	24,820
3104	24,890	3205	25,450	3347	24,950	3435	24,820
3105	24,210	3206	25,150	3348	25,150	3436	24,820
3106	23,520	3207	25,360	3350	24,900	3437	24,820
3107	23,540	3208	25,520	3351	25,120	3438	24,820
3108	23,520	3209	25,110	3352	24,980	3439	24,820
3109	23,550	3210	28,940	3353	25,180	3440	24,820
3110	23,550	3211	28,940	3354	25,200	3441	24,820
3111	23,550	3212	25,390	3355	24,880	3442	24,820
3112	23,550	3213	24,400	3356	25,270	3443	24,820
3113	23,550	3214	24,400	3357	25,570	3444	24,820
3114	23,550	3215	24,400	3358	26,000	3445	24,820
3115	23,550	3216	24,400	3359	24,900	3446	24,820
3116	23,550	3217	24,400	3360	25,170	3447	24,820
3117	23,550	3218	24,400	3361	25,170	3448	24,820
3118	23,550	3219	24,400	3362	25,170	3449	24,820
3119	23,550	3220	24,400	3363	25,170	3450	24,820
3120	23,550	3221	24,400	3364	25,170	3451	24,820
3121	23,550	3222	24,400	3365	25,170	3452	24,820
3122	23,550	3223	24,400	3366	25,170	3453	24,820
3123	23,550	3224	24,400	3367	25,170	3454	24,820
3124	23,550	3225	24,400	3368	25,170	3455	24,820
3125	23,550	3226	24,400	3369	25,170	3456	24,820
3126	23,550	3227	24,400	3370	25,170	3457	24,820
3127	23,550	3228	24,400	3371	25,170	3458	24,820
3128	23,550	3229	24,400	3372	25,170	3459	24,820
3129	23,550	3230	24,400	3373	25,170	3460	24,820
3130	23,550	3231	24,400	3374	25,170	3461	24,820
3131	23,550	3232	24,400	3375	25,170	3462	24,820
3132	23,550	3233	24,400	3376	25,170	3463	24,820
3133	23,550	3234	24,400	3377	25,170	3464	24,820
3134	23,550	3235	24,400	3378	25,170	3465	24,820
3135	23,550	3236	24,400	3379	25,170	3466	24,820
3136	23,550	3237	24,400	3380	25,170	3467	24,820
3137	23,550	3238	24,400	3381	25,170	3468	24,820
3138	23,550	3239	24,400	3382	25,170	3469	24,820
3139	23,550	3240	24,400	3383	25,170	3470	24,820
3140	23,550	3241	24,400	3384	25,170	3471	24,820
3141	23,550	3242	24,400	3385	25,170	3472	24,820
3142	23,550	3243	24,400	3386	25,170	3473	24,820
3143	23,550	3244	24,400	3387	25,170	3474	24,820
3144	23,550	3245	24,400	3388	25,170	3475	24,820
3145	23,550	3246	24,400	3389	25,170	3476	24,820
3146	23,550	3247	24,400	3390	25,170	3477	24,820
3147	23,550	3248	24,400	3391	25,170	3478	24,820
3148	23,550	3249	24,400	3392	25,170	3479	24,820
3149	23,550	3250	24,400	3393	25,170	3480	24,820
3150	23,550	3251	24,400	3394	25,170	3481	24,820
3151	23,550	3252	24,400	3395	25,170	3482	24,820
3152	23,550	3253	24,400	3396	25,170	3483	24,820
3153	23,550	3254	24,400	3397	25,170	3484	24,820
3154	23,550	3255	24,400	3398	25,170	3485	24,820
3155	23,550	3256	24,400	3399	25,170	3486	24,820
3156	23,550	3257	24,400	3400	25,170	3487	24,820
3157	23,550	3258	24,400	3401	25,170	3488	24,820
3158	23,550	3259	24,400	3402	25,170	3489	24,820
3159	23,550	3260	24,400	3403	25,170	3490	24,820
3160	23,550	3261	24,400	3404	25,170	3491	24,820
3161	23,550	3262	24,400	3405	25,170	3492	24,820
3162	23,550	3263	24,400	3406	25,170	3493	24,820
3163	23,550	3264	24,400	3407	25,170	3494	24,820
3164	23,550	3265	24,400	3408	25,170	3495	24,820
3165	23,550	3266	24,400	3409	25,170	3496	24,820
3166	23,550	3267	24,400	3410	25,170	3497	24,820
3167	23,550	3268	24,400	3411	25,170	3498	24,820
3168	23,550	3269	24,400				
3169	23,550	3270	24,400				
3170	23,550	3271	24,400				
3171	23,550	3272	24,400				
3172	23,550	3273	24,400				
3173	23,550	3274	24,400				
3174	23,550	3275	24,400				

UNION TANK LINE CARS—Continued.

Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.
3545	23, 600	3640	24, 140	3718	25, 320	3780	35, 300
3546	23, 670	3641	24, 070	3719	25, 780	3781	24, 780
3547	23, 610	3642	23, 920	3715	25, 280	3782	25, 250
3548	23, 560	3643	24, 180	3716	25, 160	3783	25, 390
3549	23, 710	3644	24, 080	3717	25, 600	3784	25, 100
3550	23, 620	3645	24, 110	3718	24, 880	3785	25, 620
3551	23, 500	3650	23, 880	3719	26, 100	3786	25, 430
3552	23, 630	3651	24, 040	3720	26, 040	3787	25, 980
3553	24, 100	3656	24, 100	3721	25, 300	3788	26, 340
3554	23, 600	3657	23, 560	3722	24, 150	3789	25, 110
3555	23, 610	3658	23, 480	3723	25, 300	3790	25, 290
3556	23, 540	3659	23, 560	3724	25, 680	3791	25, 110
3557	23, 670	3670	23, 560	3725	25, 060	3792	25, 110
3558	23, 600	3673	23, 560	3726	25, 440	3793	25, 110
3559	23, 640	3674	23, 560	3727	25, 280	3794	25, 120
3560	23, 540	3675	23, 480	3728	25, 150	3795	25, 340
3561	23, 670	3676	23, 480	3729	25, 300	3796	25, 110
3562	23, 600	3677	23, 480	3730	25, 350	3797	25, 220
3563	23, 540	3678	23, 480	3731	25, 090	3798	25, 140
3564	23, 670	3679	23, 480	3732	25, 290	3799	26, 240
3565	23, 600	3680	23, 480	3733	25, 380	3800	26, 230
3566	23, 540	3681	23, 480	3734	25, 380	3801	26, 140
3567	23, 670	3682	23, 480	3735	25, 200	3802	25, 310
3568	23, 600	3683	23, 480	3736	25, 200	3803	26, 100
3569	23, 540	3684	23, 480	3737	25, 420	3804	25, 110
3570	23, 670	3685	23, 480	3738	25, 850	3805	25, 680
3571	23, 600	3686	23, 480	3739	26, 160	3806	26, 160
3572	23, 540	3687	23, 480	3740	25, 430	3807	26, 730
3573	23, 670	3688	23, 480	3741	25, 030	3808	25, 340
3574	23, 600	3689	23, 480	3742	24, 570	3809	25, 110
3575	23, 540	3690	23, 480	3743	24, 570	3810	26, 350
3576	23, 670	3691	23, 480	3744	24, 570	3811	25, 300
3577	23, 600	3692	23, 480	3745	24, 570	3812	24, 570
3578	23, 540	3693	23, 480	3746	24, 570	3813	25, 430
3579	23, 670	3694	23, 480	3747	24, 570	3814	25, 250
3580	23, 600	3695	23, 480	3748	24, 570	3815	25, 460
3581	23, 540	3696	23, 480	3749	24, 570	3816	25, 430
3582	23, 670	3697	23, 480	3750	24, 570	3817	26, 160
3583	23, 600	3698	23, 480	3751	24, 570	3818	25, 290
3584	23, 540	3699	23, 480	3752	24, 570	3819	26, 730
3585	23, 670	3700	23, 480	3753	24, 570	3820	25, 110
3586	23, 600	3701	23, 480	3754	24, 570	3821	30, 130
3587	23, 540	3702	23, 480	3755	24, 570	3822	30, 090
3588	23, 670	3703	23, 480	3756	24, 570		
3589	23, 600	3704	23, 480	3757	24, 570		
3590	23, 540	3705	23, 480	3758	24, 570		
3591	23, 670	3706	23, 480	3759	24, 570		
3592	23, 600	3707	23, 480				
3593	23, 540	3708	23, 480				
3594	23, 670	3709	23, 480				
3595	23, 600	3710	23, 480				
3596	23, 540	3711	23, 480				
3597	23, 670	3712	23, 480				

GREEN LINE TANK CARS.

1	23, 530	28	23, 380	61	30, 270	98	30, 300
2	24, 250	29	30, 150	62	23, 480	99	22, 240
3	35, 940	30	23, 530	63	23, 710	100	23, 380
4	24, 150	31	30, 420	64	23, 470	101	23, 130
5	23, 430	32	30, 170	65	35, 990	102	23, 320
6	23, 680	33	23, 470	66	30, 180	103	36, 000
7	24, 250	34	35, 990	67	23, 440	104	23, 690
8	23, 680	35	30, 150	68	23, 440	105	30, 340
9	24, 250	36	25, 040	69	35, 980	106	23, 680
10	24, 280	37	30, 190	70	30, 150	107	24, 120
11	23, 630	38	23, 490	71	23, 430	108	23, 470
12	24, 230	39	36, 100	72	36, 040	109	23, 600
13	23, 120	40	23, 510	73	23, 580	110	23, 430
14	23, 450	41	35, 980	74	23, 480	111	23, 760
15	24, 430	42	35, 980	75	23, 480	112	23, 440
16	35, 980	43	23, 480	76	23, 800	113	
17	23, 670	44	23, 480	77	23, 420	114	
18	23, 490	45	30, 190	78	22, 240	115	
19	35, 980	46	23, 450	79		116	
20	23, 670	47		80		117	
21	23, 490	48		81		118	
22	23, 120	49		82		119	
23	30, 300	50		83		120	
24	23, 520	51		84		121	
25	25, 940	52		85		122	

GREEN LINE TANK CARS—Continued.

Noa.	Capacity.	Noa.	Capacity.	Noa.	Capacity.	Noa.	Capacity.
125	23, 630	222	23, 500	342	23, 300	449	23, 300
126	23, 510	237	23, 600	343	23, 550	450	23, 550
127	23, 610	238	23, 500	344	23, 330	452	23, 330
128	30, 290	239	35, 980	350	23, 250	453	23, 250
129	30, 290	242	35, 980	351	23, 340	454	23, 340
130	33, 690	243	35, 980	352	30, 140	455	30, 140
134	23, 480	244	35, 980	353	23, 340	456	23, 340
135	23, 480	245	35, 980	354	30, 140	457	30, 140
136	23, 770	246	23, 480	355	23, 340	458	23, 340
137	36, 020	247	36, 020	356	30, 160	459	30, 160
138	23, 690	250	23, 500	359	23, 340	461	23, 340
141	23, 730	253	35, 980	364	23, 340	462	23, 340
143	23, 740	256	23, 540	365	30, 240	463	30, 240
144	23, 470	257	23, 560	366	23, 300	465	23, 300
146	23, 530	259	23, 730	368	36, 000	467	36, 000
147	23, 530	261	23, 540	369	23, 390	468	23, 390
148	23, 720	262	23, 550	370	36, 080	469	36, 080
149	23, 420	263	23, 480	371	23, 540	470	23, 540
150	23, 680	264	23, 560	372	23, 560	472	23, 560
151	30, 170	265	23, 500	373	23, 500	474	23, 500
152	23, 710	266	23, 500	374	35, 960	477	35, 960
153	23, 640	267	35, 960	375	23, 510	478	23, 510
154	36, 010	269	36, 300	376	23, 610	483	23, 610
155	23, 580	271	30, 200	377	23, 500	485	23, 500
156	23, 580	272	35, 980	378	23, 500	486	23, 500
157	36, 040	273	30, 240	379	23, 570	488	23, 570
158	23, 510	274	23, 640	380	23, 490	489	23, 490
159	23, 650	276	23, 540	381	23, 490	490	23, 490
160	23, 520	277	23, 630	382	23, 630	491	23, 630
161	23, 590	281	23, 490	383	23, 500	492	23, 500
162	23, 520	282	23, 630	384	30, 290	493	30, 290
163	36, 050	288	23, 490	387	36, 070	494	36, 070
164	23, 590	289	23, 630	388	23, 500	502	23, 500
165	23, 520	290	23, 630	389	30, 330	503	30, 330
166	36, 050	291	35, 980	393	23, 520	504	23, 520
167	23, 590	292	35, 980	394	36, 020	506	36, 020
168	23, 590	296	23, 670	395	23, 470	508	23, 470
169	23, 590	298	23, 670	396	35, 960	511	35, 960
170	36, 040	299	23, 470	398	23, 470	512	23, 470
171	23, 560	300	23, 610	399	23, 650	513	23, 650
172	23, 560	301	23, 610	400	23, 490	515	23, 490
173	23, 520	304	36, 080	401	23, 580	517	23, 580
174	23, 520	305	30, 150	402	23, 580	518	23, 580
175	23, 520	306	23, 580	403	23, 470	519	23, 470
176	23, 560	307	23, 580	404	23, 550	521	23, 550
177	23, 560	308	23, 580	405	23, 480	522	23, 480
178	23, 560	310	23, 580	406	23, 480	523	23, 480
179	23, 560	311	23, 190	408	23, 480	526	23, 480
180	23, 560	312	23, 540	409	35, 940	527	35, 940
181	23, 560	313	23, 620	410	23, 500	528	23, 500
182	23, 560	314	23, 620	411	23, 500	530	23, 500
183	23, 560	315	23, 620	412	23, 500	531	23, 500
184	23, 560	316	23, 620	413	23, 500	532	23, 500
185	23, 560	317	23, 620	414	23, 500	533	23, 500
186	23, 560	318	23, 620	415	23, 500	534	23, 500
187	23, 560	319	23, 620	416	23, 500	535	23, 500
188	23, 560	320	23, 620	417	23, 500	536	23, 500
189	23, 560	321	23, 620	418	23, 500	537	23, 500
190	23, 560	322	23, 620	419	23, 500	538	23, 500
191	23, 560	323	23, 620	420	23, 500	539	23, 500
192	23, 560	324	23, 620	421	23, 500	540	23, 500
193	23, 560	325	23, 620	422	23, 500	541	23, 500
194	23, 560	326	23, 620	423	23, 500	542	23, 500
195	23, 560	327	23, 620	424	23, 500	543	23, 500
196	23, 560	328	23, 620	425	23, 500	544	23, 500
197	23, 560	329	23, 620	426	23, 500	545	23, 500
198	23, 560	330	23, 620	427	23, 500	546	23, 500
199	23, 560	331	23, 620	428	23, 500	547	23, 500
200	23, 560	332	23, 620	429	23, 500	548	23, 500
201	23, 560	333	23, 620	430	23, 500	549	23, 500
202	23, 560	334	23, 620	431	23, 500	550	23, 500
203	23, 560	335	23, 620	432	23, 500	551	23, 500
204	23, 560	336	23, 620	433	23, 500	552	23, 500
205	23, 560	337	23, 620	434	23, 500	553	23, 500
206	23, 560	338	23, 620	435	23, 500	554	23, 500
207	23, 560	339	23, 620	436	23, 500	555	23, 500
208	23, 560	340	23, 620	437	23, 500	556	23, 500
209	23, 560	341	23, 620	438	23, 500	557	23, 500
210	23, 560	342	23, 620	439	23, 500	558	23, 500
211	23, 560	343	23, 620	440	23, 500	559	23, 500
212	23, 560	344	23, 620	441	23, 500	560	23, 500
213	23, 560	345	23, 620	442	23, 500	561	23, 500
214	23, 560	346	23, 620	443	23, 500	562	23, 500
215	23, 560	347	23, 620	444	23, 500	563	23, 500
216	23, 560	348	23, 620	445	23, 500	564	23, 500
217	23, 560	349	23, 620	446	23, 500	565	23, 500
218	23, 560	350	23, 620	447	23, 500	566	23, 500
219	23, 560	351	23, 620	448	23, 500	567	23, 500
220	23, 560	352	23, 620	449	23, 500	568	23, 500
221	23, 560	353	23, 620	450	23, 500	569	23, 500
222	23, 560	354	23, 620	451	23, 500	570	23, 500
223	23, 560	355	23, 620	452	23, 500	571	23, 500
224	23, 560	356	23, 620	453	23, 500	572	23, 500
225	23, 560	357	23, 620	454	23, 500	573	23, 500
226	23, 560	358	23, 620	455	23, 500	574	23, 500
227	23, 560	359	23, 620	456	23, 500	575	23, 500
228	23, 560	360	23, 620	457	23, 500	576	23, 500
229	23, 560	361	23, 620	458	23, 500	577	23, 500
230	23, 560	362	23, 620	459	23, 500	578	23, 500
231	23, 560	363	23, 620	460	23, 500	579	23, 500

GREEN LINE TANK CARS—Continued.

Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.
561	23,550	572	23,390	783	23,390	944	23,480
562	29,700	577	29,540	784	30,190	945	23,570
563	23,600	578	23,520	785	23,520	946	23,520
565	29,870	579	23,380	786	30,130	947	30,150
567	23,610	581	23,400	787	23,520	948	23,575
568	23,530	582	23,420	788	23,570	949	23,330
569	30,350	583	23,410	789	23,480	950	23,570
570	23,470	584	23,490	790	23,520	951	23,520
571	23,600	585	23,490	791	23,520	952	23,520
573	23,760	586	23,490	792	23,520	953	23,520
574	23,490	587	23,490	794	23,520	954	23,520
575	23,490	588	23,490	795	23,520	957	23,520
576	23,490	589	23,490	796	23,520	958	23,520
578	23,490	590	23,490	799	23,520	959	23,520
579	23,490	593	23,490	801	23,520	960	23,520
580	23,500	594	23,490	803	23,520	961	23,520
581	23,520	595	23,490	804	23,520	962	23,520
582	23,520	596	23,490	805	23,520	963	23,520
583	23,520	598	23,490	806	23,520	964	23,520
584	23,520	599	23,490	807	23,520	965	23,520
585	23,520	700	23,490	808	23,520	966	23,520
586	23,520	701	23,490	809	23,520	968	23,520
587	23,520	702	23,490	810	23,520	969	23,520
588	23,520	703	23,490	811	23,520	970	23,520
589	23,520	705	23,490	812	23,520	971	23,520
590	23,520	711	23,490	814	23,520	974	23,520
591	23,520	712	23,490	815	23,520	975	23,520
592	23,520	713	23,490	816	23,520	976	23,520
593	23,520	714	23,490	817	23,520	977	23,520
594	23,520	715	23,490	818	23,520	978	23,520
595	23,520	716	23,490	819	23,520	979	23,520
596	23,520	718	23,490	820	23,520	980	23,520
597	23,520	724	23,490	822	23,520	981	23,520
598	23,520	725	23,490	823	23,520	982	23,520
599	23,520	726	23,490	824	23,520	983	23,520
600	23,520	727	23,490	825	23,520	984	23,520
601	23,520	728	23,490	826	23,520	985	23,520
602	23,520	729	23,490	827	23,520	986	23,520
603	23,520	730	23,490	828	23,520	987	23,520
604	23,520	731	23,490	829	23,520	988	23,520
605	23,520	732	23,490	830	23,520	989	23,520
606	23,520	733	23,490	831	23,520	990	23,520
607	23,520	734	23,490	832	23,520	991	23,520
608	23,520	735	23,490	833	23,520	992	23,520
609	23,520	736	23,490	834	23,520	993	23,520
610	23,520	737	23,490	835	23,520	994	23,520
611	23,520	738	23,490	836	23,520	995	23,520
612	23,520	739	23,490	837	23,520	996	23,520
613	23,520	740	23,490	838	23,520	997	23,520
614	23,520	741	23,490	839	23,520	998	23,520
615	23,520	742	23,490	840	23,520	999	23,520
616	23,520	743	23,490	841	23,520	1000	23,520
617	23,520	744	23,490	842	23,520	1001	23,520
618	23,520	745	23,490	843	23,520	1002	23,520
619	23,520	746	23,490	844	23,520	1003	23,520
620	23,520	747	23,490	845	23,520	1004	23,520
621	23,520	748	23,490	846	23,520	1005	23,520
622	23,520	749	23,490	847	23,520	1006	23,520
623	23,520	750	23,490	848	23,520	1007	23,520
624	23,520	751	23,490	849	23,520	1008	23,520
625	23,520	752	23,490	850	23,520	1009	23,520
626	23,520	753	23,490	851	23,520	1010	23,520
627	23,520	754	23,490	852	23,520	1011	23,520
628	23,520	755	23,490	853	23,520	1012	23,520
629	23,520	756	23,490	854	23,520	1013	23,520
630	23,520	757	23,490	855	23,520	1014	23,520
631	23,520	758	23,490	856	23,520	1015	23,520
632	23,520	759	23,490	857	23,520	1016	23,520
633	23,520	760	23,490	858	23,520	1017	23,520
634	23,520	761	23,490	859	23,520	1018	23,520
635	23,520	762	23,490	860	23,520	1019	23,520
636	23,520	763	23,490	861	23,520	1020	23,520
637	23,520	764	23,490	862	23,520	1021	23,520
638	23,520	765	23,490	863	23,520	1022	23,520
639	23,520	766	23,490	864	23,520	1023	23,520
640	23,520	767	23,490	865	23,520	1024	23,520
641	23,520	768	23,490	866	23,520	1025	23,520
642	23,520	769	23,490	867	23,520	1026	23,520
643	23,520	770	23,490	868	23,520	1027	23,520
644	23,520	771	23,490	869	23,520	1028	23,520
645	23,520	772	23,490	870	23,520	1029	23,520
646	23,520	773	23,490	871	23,520	1030	23,520
647	23,520	774	23,490	872	23,520	1031	23,520
648	23,520	775	23,490	873	23,520	1032	23,520
649	23,520	776	23,490	874	23,520	1033	23,520
650	23,520	777	23,490	875	23,520	1034	23,520
651	23,520	778	23,490	876	23,520	1035	23,520
652	23,520	779	23,490	877	23,520		
653	23,520	780	23,490	878	23,520		
654	23,520	781	23,490	879	23,520		
655	23,520	782	23,490	880	23,520		
656	23,520			881	23,520		
657	23,520			882	23,520		
658	23,520			883	23,520		
659	23,520			884	23,520		
660	23,520			885	23,520		
661	23,520			886	23,520		
662	23,520			887	23,520		
663	23,520			888	23,520		
664	23,520			889	23,520		
665	23,520			890	23,520		
666	23,520			891	23,520		
667	23,520			892	23,520		
668	23,520			893	23,520		
669	23,520			894	23,520		
670	23,520			895	23,520		

GREEN LINE TANK CARS—Continued.

Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.	Nos.	Capacity.
1086	28,540	1088	29,090	1144	29,370	1220	29,350
1087	28,600	1089	29,730	1145	29,430	1221	29,350
1088	30,840	1090	30,170	1146	29,320	1222	29,350
1089	28,700	1091	29,560	1147	29,330	1223	29,350
1090	28,800	1092	29,790	1148	29,330	1224	29,350
1091	23,670	1102	30,210	1149	29,480	1225	29,350
1092	23,520	1103	30,820	1150	29,210	1226	29,350
1093	23,590	1104	29,790	1151	29,490	1227	29,350
1094	35,900	1105	35,800	1152	29,390	1228	29,350
1095	23,400	1106	29,780	1153	29,440	1229	29,350
1096	23,500	1107	36,020	1154	29,370	1230	29,350
1097	23,560	1108	29,580	1155	29,490	1231	29,350
1098	23,560	1109	29,720	1156	29,280	1232	29,350
1099	23,500	1110	35,840	1157	29,540	1233	29,350
1100	30,070	1111	29,540	1158	29,320	1234	29,350
1101	28,500	1112	29,800	1159	29,720	1235	29,350
1102	23,510	1113	29,690	1160	29,610	1236	29,350
1103	35,980	1114	29,680	1161	29,500	1237	29,350
1104	24,480	1115	29,800	1162	29,830	1238	29,350
1105	29,710	1116	30,310	1163	29,630	1239	29,350
1106	23,630	1117	30,840	1164	29,310	1240	29,350
1107	36,080	1118	29,810	1165	29,610	1241	29,350
1108	23,520	1119	35,870	1166	29,500	1242	29,350
1109	35,960	1120	29,360	1167	29,500	1243	29,350
1110	23,470	1121	29,500	1168	29,340	1244	29,350
1111	23,560	1122	29,420	1169	29,500	1245	29,350
1112	29,760	1123	29,280	1170	29,380	1246	29,350
1113	23,560	1124	29,470	1171	29,540	1247	29,350
1114	23,540	1125	30,610	1172	29,370	1248	29,350
1115	29,740	1126	30,610	1173	29,370	1249	29,350
1116	29,590	1127	30,610	1174	29,370	1250	29,350
1117	29,590	1128	30,610	1175	29,370	1251	29,350
1118	29,590	1129	30,610	1176	29,370	1252	29,350
1119	29,590	1130	30,610	1177	29,370	1253	29,350
1120	29,590	1131	30,610	1178	29,370	1254	29,350
1121	29,590	1132	30,610	1179	29,370	1255	29,350
1122	29,590	1133	30,610	1180	29,370	1256	29,350
1123	29,590	1134	30,610	1181	29,370	1257	29,350
1124	29,590	1135	30,610	1182	29,370	1258	29,350
1125	29,590	1136	30,610	1183	29,370	1259	29,350
1126	29,590	1137	30,610	1184	29,370	1260	29,350
1127	29,590	1138	30,610	1185	29,370	1261	29,350
1128	29,590	1139	30,610	1186	29,370	1262	29,350
1129	29,590	1140	30,610	1187	29,370	1263	29,350
1130	29,590	1141	30,610	1188	29,370	1264	29,350
1131	29,590	1142	30,610	1189	29,370	1265	29,350
1132	29,590	1143	30,610	1190	29,370	1266	29,350
1133	29,590	1144	30,610	1191	29,370	1267	29,350
1134	29,590	1145	30,610	1192	29,370	1268	29,350
1135	29,590	1146	30,610	1193	29,370	1269	29,350
1136	29,590	1147	30,610	1194	29,370	1270	29,350
1137	29,590	1148	30,610	1195	29,370	1271	29,350
1138	29,590	1149	30,610	1196	29,370	1272	29,350
1139	29,590	1150	30,610	1197	29,370	1273	29,350
1140	29,590	1151	30,610	1198	29,370	1274	29,350
1141	29,590	1152	30,610	1199	29,370	1275	29,350
1142	29,590	1153	30,610	1200	29,370	1276	29,350
1143	29,590	1154	30,610	1201	29,370	1277	29,350
1144	29,590	1155	30,610	1202	29,370	1278	29,350
1145	29,590	1156	30,610	1203	29,370	1279	29,350
1146	29,590	1157	30,610	1204	29,370	1280	29,350
1147	29,590	1158	30,610	1205	29,370	1281	29,350
1148	29,590	1159	30,610	1206	29,370	1282	29,350
1149	29,590	1160	30,610	1207	29,370	1283	29,350
1150	29,590	1161	30,610	1208	29,370	1284	29,350
1151	29,590	1162	30,610	1209	29,370	1285	29,350
1152	29,590	1163	30,610	1210	29,370	1286	29,350
1153	29,590	1164	30,610	1211	29,370	1287	29,350
1154	29,590	1165	30,610	1212	29,370	1288	29,350
1155	29,590	1166	30,610	1213	29,370	1289	29,350
1156	29,590	1167	30,610	1214	29,370	1290	29,350
1157	29,590	1168	30,610	1215	29,370	1291	29,350
1158	29,590	1169	30,610	1216	29,370	1292	29,350
1159	29,590	1170	30,610	1217	29,370	1293	29,350
1160	29,590	1171	30,610	1218	29,370	1294	29,350
1161	29,590	1172	30,610	1219	29,370	1295	29,350
1162	29,590	1173	30,610			1296	29,350
1163	29,590	1174	30,610			1297	29,350
1164	29,590	1175	30,610			1298	29,350
1165	29,590	1176	30,610			1299	29,350
1166	29,590	1177	30,610			1300	29,350
1167	29,590	1178	30,610			1301	29,350
1168	29,590	1179	30,610			1302	29,350
1169	29,590	1180	30,610			1303	29,350
1170	29,590	1181	30,610			1304	29,350
1171	29,590	1182	30,610			1305	29,350
1172	29,590	1183	30,610			1306	29,350
1173	29,590	1184	30,610			1307	29,350
1174	29,590	1185	30,610			1308	29,350
1175	29,590	1186	30,610			1309	29,350
1176	29,590	1187	30,610			1310	29,350
1177	29,590	1188	30,610			1311	29,350
1178	29,590	1189	30,610			1312	29,350
1179	29,590	1190	30,610			1313	29,350
1180	29,590	1191	30,610			1314	29,350
1181	29,590	1192	30,610			1315	29,350
1182	29,590	1193	30,610			1316	29,350
1183	29,590	1194	30,610			1317	29,350
1184	29,590	1195	30,610			1318	29,350
1185	29,590	1196	30,610			1319	29,350
1186	29,590	1197	30,610			1320	29,350
1187	29,590	1198	30,610			1321	29,350
1188	29,590	1199	30,610			1322	29,350
1189	29,590	1200	30,610			1323	29,350
1190	29,590	1201	30,610			1324	29,350
1191	29,590	1202	30,610			1325	29,350
1192	29,590	1203	30,610			1326	29,350
1193	29,590	1204	30,610			1327	29,350
1194	29,590	1205	30,610			1328	29,350
1195	29,590	1206	30,610			1329	29,350
1196	29,590	1207	30,610			1330	29,350
1197	29,590	1208	30,610			1331	29,350
1198	29,590	1209	30,610			1332	29,350
1199	29,590	1210	30,610			1333	29,350
1200	29,590	1211	30,610			1334	29,350
1201	29,590	1212	30,610			1335	29,350
1202	29,590	1213	30,610			1336	29,350
1203	29,590	1214	30,610			1337	29,350
1204	29,590	1215	30,610			1338	29,350
1205	29,590	1216	30,610			1339	29,350
1206	29,590	1217	30,610			1340	29,350
1207	29,590	1218	30,610			1341	29,350
1208	29,590	1219	30,610			1342	29,350
1209	29,590	1220	30,610			1343	29,350
1210	29,590	1221	30,610			1344	29,350
1211	29,590	1222	30,610			1345	29,350
1212	29,590	1223	30,610			1346	29,350
1213	29,590	1224	30,610			1347	29,350
1214	29,590	1225	30,610			1348	29,350
1215	29,590	1226	30,610			1349	29,350
1216	29,590	1227	30,610			1350	29,350
1217	29,590	1228	30,610			1351	29,350
1218	29,590	1229	30,610			1352	29,350
1219	29,590	1230	30,610			1353	29,350
1220	29,590	1231	30,610			1354	29,350
1221	29,590	1232	30,610			1355	29,350
1222	29,590	1233	30,610			1356	29,350
1223	29,590	1234	30,610			1357	29,350
1224	29,590	1235	30,610			1358	29,350
1225	29,590	1236	30,610			1359	29,350
1226	29,590	1237	30,610			1360	29,350
1227	29,590	1238	30,610			1361	29,350
1228	29,590	1239	30,610			1362	29,350
1229	29,590	1240	30,610			1363	29,350
1230	29,590	1241	30,610			1364	29,350
1231	29,590	1242	30,610			1365	29,350
1232	29,590	1243	30,610			1366	29,350
1233	29,590	1244	30,610			1367	29,350
1234	29,590	1245	30,610			1368	29,350
1235	29,590	1246	30,610			1369	29,350
1236	29,590	1247	30,610			1370	29,350
1237	29,590	1248	30,610			1371	29,350
1238	29,590	1249</					

MISCELLANEOUS—Continued.

Company.	Car Nos.	Capacity.	Company.	Car Nos.	Capacity.
Clark Bros. & Co.'s cars	705 768 770 868 887 950 964 1120 1178 1197 1210 1279 1283	23, 490 23, 570 23, 570 23, 750 23, 850 23, 570 33, 530 23, 800 23, 470 23, 830 23, 440 23, 400 30, 810	Scotfield, Shurmer & Teagle's cars	4 20 21 22 23	28, 500 28, 300 23, 500 28, 550
Imperial Oil Company's cars	20 30 40 50 60 70 80	24, 930 24, 910 24, 930 27, 060 28, 010 28, 050 27, 040	Dangler Vapor Stove and Refining Company's cars	101 102 103 104	32, 500
Mutual Oil Company's cars	15 16 17 19 20 27 28 32	29, 250 23, 400 29, 250 35, 750	Globe Line cars	101 102 103	34, 125
			Cleveland Oil and Tank Company's cars	1 2 3	35, 750
			Chester Oil Company, T. W. P. Company, and P. & R. R. R. Company's cars	1 2 06 07 09 012 014 017 026 028 081 0242 0251	29, 060

Where car numbers are bracketed together, it should be understood that all intermediate numbers, as well as the numbers so shown, are included.

NOTE.—Cylinder-tank or box-tank cars not provided for in the above tables will be charged for at an estimated weight of 40,000 pounds per car.

J. E. Utt, G. F. A. B., C. R. and N. R'y, Cedar Rapids, Ia.

T. H. Simmons, G. F. A. Cent. Iowa R'y, Marshalltown, Ia.

H. H. Courtright, G. F. A. Chicago and Alton R. R., Chicago, Ill.

Howard Elliott, G. F. A. C., B. and K. C. and Saint L., K. and NW. R'ys, Keokuk, Ia.

W. B. Hamblin, G. F. A. C., B. and N. R. R., Saint Paul, Minn.

E. P. Ripley, G. F. A. C., B. and Q. R. R., Chicago, Ill.

W. S. Porter, G. F. A. C., I. and D. R'y, Eldora, Ia.

A. C. Bird, G. F. A. C., M. and Saint P. R'y, Milwaukee, Wis.

H. R. McCullough, G. F. A., C. and NW. R'y, Chicago, Ill.

W. M. Sage, G. F. A. C., R. I. and P. R'y, Chicago, Ill.

James T. Clark, G. F. A. C., Saint P., M. and O. R'y, Saint Paul, Minn.

George L. Hurley, G. F. A. D. M. and Fort D. R. R., Des Moines, Ia.

E. J. Swords, G. F. A. H. and Saint J. and K. C., Saint J. and C. B. R. R.'s, Saint Joseph, Mo.

Horace Tucker, G. F. A. Illa. Cent. R. R., Chicago, Ill.

L. F. Kimball, G. F. A. M. and Saint L. R'y, Minneapolis, Minn.

J. A. Hanley, T. M. M. and NW. R. R., Saint Paul, Minn.

W. H. Newman, G. T. M. Mo. Pac. R'y, Saint Louis, Mo.

R. Stockhouse, G. F. A. R. I. and P. R'y, Rock Island, Ill.

G. W. Cale, G. F. A. Saint L. and San F. R'y, Saint Louis, Mo.

K. C. Morehouse, G. F. A. S. C. and P. R. R., Mo. Valley, Ia.

M. Knight, G. F. A. Wabash R'y, Chicago, Ill.

James Smith, G. T. M., Wabash Western R'y, Saint Louis, Mo.

H. C. Barlow, G. F. A. Wis. Cent. Line, Milwaukee, Wis.

By Mr. GOWEN:

Q. You have had a great deal of litigation, have you not, with these various railroads in the last year or two? You had several suits before the Interstate Commerce Commission, had you not?—A. Yes, sir.

Q. And you were instrumental in having some proceeding commenced before Judge Baxter in Ohio, were you not?—A. Certainly.

Q. And you furnished information for two quo warranto suits?—A. Yes, sir.

Q. State whether or not it has not been important for you to ascertain the exact rate you paid as compared with that paid by the Standard Oil Company when they shipped in tank cars.—A. It was important in order that I might be able to compete with them.

Q. To find out what they were paying?—A. Yes, sir.

Q. And when you found a bill of theirs showing that a tank was billed at 20,000 pounds, if your examination proved that that tank held 40,000 pounds it was simply proving that they got a rate at one-half what it purported to be?—A. Yes, sir.

Q. State whether all manifests do not give the number of cars.—A. Certainly.

Q. And is not that the only way that you can identify them?—A. Yes, sir; by the manifests and the names of the cars.

Q. And you must know the number of the car?—A. Certainly.

Q. State whether since this circular was issued they have changed the numbers of these cars.—A. It was so stated by Mr. Payne, of the Union Tank Line.

Q. That is, it was stated in the case of *George Rice vs. various railroad companies* before the Interstate Commerce Commission?—A. Yes, sir.

Mr. GOWEN. I offer in evidence a statement from the testimony of Mr. Payne on page 28 of this book, being proceedings in those cases before the Interstate Commerce Commission. The witness's testimony commences on page 25. The extract is as follows:

Q. Has there recently been any general change in the numbering of the cars?—A. Yes, sir; there has been quite a general renumbering, repainting, and overhauling.

Q. When did that change take place?—A. I think it was commenced some time in July; it may have been later.

Q. And what was the character of the change in the matter of re-numbering?—A. The cars were changed as to classification slightly, to get the cars of the same general class as near together as possible.

Q. Standing in what respect, as to capacity?—A. As to their strength, and age, and capacity.

Q. Before that new numbering was adopted, what was the highest number in your series?—A. I think about 3,000—very near that—a little higher.

Q. How was the method of numbering changed?—A. I do not understand your question.

Q. I am trying to ascertain what was done.

The CHAIRMAN. In what respect?

Mr. LOOMIS. How many cars has the Union Tank Line altogether?

The WITNESS. There are in the neighborhood of 3,000.

Q. And you say they are numbered from 800 up to something like 6,000?—A. That is the range of the numbers at the present time.

Q. How were they in that respect before the change?—A. Before the change in number?

Q. Yes.—A. They ran from about 800 up to about 3,000.

Q. What system have you now adopted of numbering? They are not numbered consecutively?—A. They will be numbered consecutively when the changes in the line are completed. They are not yet completed.

Q. At what number did you begin in making the new number?—A. I think we commenced at 4,000.

Q. To which system of numbering do these statements relate—to the new number or to the old?—A. Relate to the cars just as they were when they were shipped, the number under which they ship. It may have been as to the old number or the new number actually shipped, and the statement given.

By Mr. GOWEN:

Q. The result of that renumbering, then, has made it practically impossible now to identify any of these past shipments made before that time in order to ascertain the exact quantity a tank car contained?—A. Certainly; that would follow naturally.

Q. What effect did this change and increase of rate have upon your business?—A. Well, I made a statement of that.

Q. Will you look at this paper and refresh your recollection [handing paper to witness]?—A. In a period of five months?

Q. Take the year.—A. Well, I am merely stating it in a general way. In a period of five months it shut up 14 of my agencies out of 24, and reduced the towns from 73 to 34. That is making a comparison with the number of towns we had been selling to in 1886, and reduced the agencies 14 out of 24.

Q. In the previous year how many agents had you?—A. Twenty-four in all. My shipments over the Cincinnati, Washington and Baltimore Railroad, which is the principal initial point out of Marietta, making a comparison of a year previous to July 15, 1886, and a year subsequent to July 15, 1886, is as follows: I had shipped from July 16, 1885, to July 15, 1886, 405 cars, containing 30,523 barrels; and from July 16, 1886, to July 15, 1887, 93 cars, containing 6,522 barrels, making a decrease of 312 cars and 24,001 barrels, a falling off of 79 per cent.

Q. That was a loss of about four-fifths of your business in barrels?—A. Yes, sir.

Q. In one year?—A. Yes, sir; that is the statement.

Q. What efforts did you make to get rates from other companies?—A. After this advance was made there was no other avenue open to me but by the Baltimore and Ohio system to get into the South. It was quite a long route, but I thought I had better make the attempt to see if I could get rates from them. I came first to Washington to see Mr. Hass, who was general manager of the Piedmont Air Line. He was going to New York, and I went with him. He said incidentally that Mr. Harriot was to be there. We had a conference at the St. James Hotel in regard to rates to the South. The result of it was, we made no agreement then, but I got rates from this line by which I could put oil into the South at the same rates as I had been paying previous to July, 1886.

Q. Before going into that I wish to ask you about correspondence you had with other companies asking for rates, and the result. Will you look at that and see if it is a copy of such correspondence?—A. That is correspondence I had with the initial line, with Mr. Fraser and Mr. Smith, of the Cincinnati, Washington and Baltimore, in regard to rates.

Q. Are those letters written by you to them?—A. Yes, sir.

Q. How many of those letters did they answer?—A. To go back a little, that advance was made in July, 1886. Mr. Smith was not in Cincinnati at the time I went to see Mr. Fraser, on July 13. I then went to Louisville and saw Mr. Mitchell, and on July 14 he gave me a partial list of these advances. I went to Saint Louis and saw Mr. Duncan, and he gave me to understand that he was willing to continue the rates at the old figure. I then waited until Mr. Smith got back, and went to see him about the 1st of October, 1886, and talked to him about this extraordinary advance, and asked if I could not at least get the rate back to where it was before. He informed me that he did not know about the advance; that it was news to him. In the meantime I went to Louisville and saw Mr. Mitchell again. He was willing to continue the rates at the old figures if Mr. Smith was. I went to Saint Louis and

saw Mr. Duncan, of the Ohio and Mississippi, and he said he was willing to make any rates the Cincinnati, Washington and Baltimore would make.

Q. The Cincinnati, Washington and Baltimore was the initial line?—

A. Yes, sir. Then I wrote to Mr. Smith that these connecting lines were willing to make the same rates which were in force prior to July 15, 1886, when the advance was made, and as his line was the initial line, and the only obstacle in the way, I hoped he would see his way clear to do the same. He never answered that letter, nor several others which I wrote to him.

Q. Are those the letters?—A. Yes, sir.

Q. And is this type-written copy a correct copy of those letters?—A. Yes, sir.

Mr. GOWEN. I offer copies of those letters in evidence. They are as follows:

MARIETTA, OHIO, September 28, 1886.

R. M. FRASER, G. F. A.,

Cincinnati, Washington and Baltimore, Cincinnati, Ohio:

I am desirous of building some tank cars to run over your line, provided I can get the same net rates now being paid by the Camden Consolidated Oil Company of Parkersburgh.

Please advise immediately.

Truly, yours,

GEO. RICK.

No answer.

MARIETTA, OHIO, October 3, 1886.

ORLAND SMITH, Esq.,

President Cincinnati, Washington and Baltimore Railroad, Cincinnati, Ohio:

I left Cincinnati on Friday evening last for Louisville, after my conversation with you, in order to see B. F. Mitchell, G. F. A. C. O., & S. W. R. R., if he would be willing to take my oils at the old rates existing previous to the raise of July 15 last, and he said he would, and gave me permission to so state to you. I saw Mr. Duncan at Saint Louis on Thursday, and he stated to me that he always accepted whatever rates Mr. Fraser made. So there is left only one obstacle or impediment in my way now to a resumption of my traffic over your line at the old rates, and that is your consent.

I shipped 495 cars over your road from July 15, 1885, to July 15, 1886. This year, from July 15 to date, 22 cars, while for corresponding time last year I shipped 89 cars, a difference of 67 cars in two and a half months of summer shipments; or a loss, at the lowest calculation at \$20 per car, of \$1,340 revenue, which would have already been in the hands of the treasurer, as I prepaid my freights. Since the abrogation of the old rates I have put a large quantity of oil into Memphis by river at 50 cents per barrel. I am now filling an order of 900 barrels to go by through boat on Wednesday from here to New Orleans at \$1 per barrel. The Cleveland rate is \$1 per barrel in 60 barrel cars, while to several points like New Orleans, Mobile, Vicksburg, Meridian, etc., I ship 100-barrel lots. The ocean rate, New York to New Orleans, is 90 cents to \$1 per barrel by steamer, and by schooner 50 cents per barrel. The Standard Oil Company (Camden Consolidated Oil Company) get their oil carried much less by tank car over your road than I do, comparing their tank cars at 100 barrels as against cars that I ship 100 barrels in, and they have lots of tank cars that hold 120 barrels of 50 gallons each to my certain knowledge. Their tank cars are hauled back empty, while the box cars I ship in are loaded back. The division of rates I gave you is absolutely correct, and shows a fine state of affairs. Out of fifteen of the largest and most important towns that I ship my goods to there is not one in this whole list but that your road receives more than its local rate on all this through business, ranging from 31 cents per barrel, the lowest, up to 59 cents per barrel, the highest (the local rate being 30 cents), or an advance of 10 to 150 per cent. on me since July 15.

Stewart says there is money in carrying my oil at \$20 per car, and still you have not carried it for less on your through business even at the old rates, and six towns out of these fifteen named to you have received more than the local on its through business at the old prices. Your present rates are prohibitory, and I can't use them on account low price of oils. Your road, being the initial road, has the making of the rates and can easily conform all connecting lines with it, if the proper disposition is shown, "especially to certain oil shippers." I have given your road all my busi-

ness for the past two years, and it does not seem just and right that I should be so summarily treated. On this state of facts, I only ask that the old rates existing before July 15 last be set back where they were. I should not have appealed to you in this matter, but I could not get any satisfaction out of Mr. Fraser, and so went to you as the court of last resort, expecting you will right this matter as it justly deserves.

Yours,

GEO. RICE.

Never answered.

MARIETTA, OHIO, October 11, 1886.

ORLAND SMITH,

President C. W. and B. R. R., Cincinnati, Ohio :

DEAR SIR: Please advise concerning oil rates, about which I saw you when in Cincinnati last, and oblige,

Yours, very truly,

GEO. RICE.

Never answered.

MARIETTA, OHIO, October 20, 1886.

ORLAND SMITH, Esq.,

President C., W. and B. R. R., Cincinnati, Ohio :

I have just returned after an absence of two weeks, and find that you have not as yet answered the very important letter I wrote you on the 3d (seventeen days ago), concerning the late and extraordinary advance made by your road on me on my oil shipments, which has precluded me from entering several of the markets of our common country. On the 11th another letter was written you by my house, to which no reply has been received (after nine days' waiting). I now in person call upon you again, by this letter, to know if said letter of October 3 will meet with respectful attention at your hands.

It strikes me quite forcibly that this is not the treatment I should receive from you, after the large amount of business given your line, having shipped 495 car-loads in the past year.

Yours,

GEO. RICE.

Never answered.

MARIETTA, OHIO, October 26, 1886.

R. M. FRASER, Esq.,

General Freight Agent. C., W. and B., Cincinnati, Ohio :

I am desirous of building some tank cars to carry refined oil in bulk, and wish to know when built that I can send them over your line at the same net rate as accorded other shippers.

You informed me that you took same regardless of weight or capacity. If any limit to this please state it, also if any change made by your road on return empty. Is your rates on oil from Marietta and Parkersburgh the same?

An early answer will greatly oblige.

Yours,

GEO. RICE.

CINCINNATI, October 29, 1886.

GEORGE RICE, Esq., *Marietta, Ohio :*

DEAR SIR: Yours 26th referred to President Smith, who, I presume, will answer direct. If, however, he instructs me on the subject I will communicate with you immediately.

Yours, respectfully,

R. M. FRASER,
G. F. A.

MARIETTA, OHIO, November 12, 1886.

R. M. FRASER, Esq.,

General Freight Agent C., W. and B., Cincinnati, Ohio :

I wrote you October 26 for certain information. You replied on the 29th, saying you had referred my letter to President Smith, who you presumed would answer me direct, or instruct you to do so, in which case you would answer me immediately.

I desire to call your attention to the fact that I have not as yet received an answer. Please advise.

Yours,

GEO. RICE.

MARIETTA, OHIO, November 14, 1886.

ORLAND SMITH, Esq.,

President C., W. and B., Cincinnati, Ohio :

I have addressed you several letters, commencing with October 3 last, on the question of the advance in oil rates by your line and connections on July 15 last. In my letter to you of October 3 last I called your attention to the fact that the connecting lines had agreed to stand or resume the old rates which existed previous to July 15. I then stated that your line was the only obstacle or impediment in the way to the resumption of my oil traffic over your line, and desired that you would also see the justice of my request and grant a restoration of the old rates. These several letters you have treated with silent contempt, and don't propose to answer or right the injustice done me. I withdraw the very modest request asked for in my letter to you of October 3 last, and not only ask, but demand from you, equal rates in the carrying of my oils over your line of road as is accorded to the Standard Oil Company or any other shipper. I propose now to assert those rights, given me as a citizen of this State, to compel your line, as well as others, to give to me the rights that legally belong to me. I ask for nothing more, nor will I take anything less. My business has been materially damaged, and I have been forced out of several of my most prominent markets to which I sent my goods on account of the excessive and extraordinary advance made on me on July 15 last by several of the rail lines, of which your road is the most prominent feature. I have submitted patiently, long, and well to all the indignities heaped upon me by this great combination, the railroads and the Standard Oil Company, and I now propose to kick and back water, and see if the courts of this country will stand by me. If not, I will spit upon the flag that has waved over me in the past and take up my citizenship under the Union Jack, where one can be assured of full protection in his business relations with his fellow-man. This is a fight for existence, as against this great monopolistic power, and may justice and right prevail. I bid you adieu.

Yours,

GEO. RICE.

Never answered.

CINCINNATI, November 15, 1886.

GEO. RICE, Esq., *Marietta, Ohio :*

DEAR SIR: Yours of the 12th instant. I have not as yet received a reply from President Smith, and am therefore unable to answer your letter.

President Smith has been away from the city most of the time lately, which I presume is the reason for not having answered sooner.

Yours, truly,

R. M. FRASER,
G. F. A.

MARIETTA, OHIO, November 17, 1886.

R. M. FRASER,

General Freight Agent C., W. and B., Cincinnati, Ohio :

What is the reason I can't get answer to my letter of October 26, and which you said you turned over to President Smith? I also called your attention to this same matter on the 12th.

Yours,

GEO. RICE.

CINCINNATI, November 18, 1886.

GEO. RICE, Esq., Marietta, Ohio:

DEAR SIR: Your letter of the 17th. I answered your letter of the 12th on the 15th, as follows:

"Yours of the 12th instant. I have not as yet received a reply from President Smith, and am therefore unable to answer your letter. President Smith has been away from the city most of the time lately, which I presume is the reason for not having answered sooner."

Yours, truly,

R. M. FRASER,
G. F. A.

Q. Look at these papers and see what they are.—A. They are letters from the Queen and Crescent route in reference to rates to the South.

Q. During what time?—A. 1885 and 1886.

Q. Are those letters written by you and answers received from them?—A. Yes, sir.

Q. Did they answer all your letters?—A. They answered some of them.

Q. Are all those letters here?—A. Yes, sir.

Q. Wherever they answered they are here?—A. Yes, sir.

Q. Is that type-written copy a correct copy?—A. Yes, sir.

Mr. BUCHANAN. Has Mr. Rice compared it?

The WITNESS. I did not compare it personally, but the type-writer did, and said it was correct.

By Mr. GOWEN:

Q. Did you direct somebody to have it compared?—A. I told the type-writer to compare it.

Q. You directed somebody to do it?—A. Yes, sir.

Q. What is the name of the type-writer?—A. Her name is May Carroll; she said she made the comparison carefully. I did not do it myself.

Mr. GOWEN. I offer those letters in evidence. They are as follows:

QUEEN AND CRESCENT ROUTE,

Cincinnati, September 7, 1885.

Rates on coal oil.

GEO. RICE, Esq.,

Marietta, Ohio:

DEAR SIR: Replying to your favor of 20th ultimo, which I have carefully read and considered, I beg to advise you that rates named therein to apply from Marietta to various Southern points are entirely too low compared with our revenue on oil from other sources, and therefore can not be granted from Cincinnati, much less from Marietta.

I desire to aid you, if possible, in doing some business in the South, and to this end I will offer the following rates from Cincinnati:

	Per barrel.	Per tank car.
Lexington, Ky.....	\$0.50	\$25.00
Chattanooga, Tenn.....	.96	42.60
Atlanta, Ga.....	2.24	62.00
Birmingham, Ala.....	2.00	.....
Jackson, Miss.....	2.44	.....
Meridian, Miss.....	1.64	.....
Vicksburg, Miss.....	1.48	.....
Knoxville, Tenn.....	1.60	.....
Huntsville, Tenn.....	1.48	.....
Shreveport, La.....	3.00	.....
Montgomery, Ala.....	2.28	.....

Rates per barrel apply on car loads of not less than 60 barrels.
Tank cars to be furnished by shippers, and to be returned empty at 5 cents per mile.

Kindly advise me if these rates will be acceptable.

Very truly,

JOHN C. GAULT,
General Manager.

CINCINNATI, January 2, 1886.

GEORGE RICE, Esq.,
Marietta, Ohio :

DEAR SIR: With reference to yours of the 1st instant, I beg to say that myself and Mr. Bond are now discussing the matter of special rates on oil for the Chess-Carley from Cincinnati and Louisville with Mr. M. H. Smith. Very little progress has as yet been made, but when the matter has been concluded I will advise you. In the mean time you can work on the basis of 96 cents per barrel from Cincinnati to Chattanooga, and the rates quoted to you previous to December 1, 1885.

Yours truly,

J. C. GAULT,
General Manager.

MARIETTA, OHIO, January 4, 1886.

JOHN MEAGHER, Esq.,
Queen and Crescent, Cincinnati, Ohio :

Your dispatch at hand. I can not use the rates given me December 1, as prices of oils will not warrant it. Can't you give me a rate of 24.4 per hundred from Cincinnati to Knoxville, which is the rate given me by James A. Ogden, general freight agent, when in Knoxville recently? If so will ship in a car at once.

I will also ship a tank car to Chattanooga at 42.60, same rate given to Chess-Carley & Co. Please advise at once, as I will have to reject these orders if I am unable to get above rates.

Truly yours,

GEO. RICE.

QUEEN AND CRESCENT ROUTE,
Cincinnati, January 6, 1886.

GEO. RICE, Esq.,
Marietta, Ohio :

DEAR SIR: Yours of the 4th instant received. With reference to the Knoxville business I have to say that we can only consider absolute tariff rates as effective. If Mr. Ogden wishes to quote 24.4 cents per 100, I presume he intends to protect it.

As to business to other points I have to say that no definite arrangement has as yet been reached, and until that time we must decline to quote other than tariff rates.

Yours truly,

JNO. MEAGHER,
Chief Clerk.

THE WESTERN UNION TELEGRAPH COMPANY,
[Marietta, January 7, 1886.]

J. C. GAULT,
Cincinnati, Ohio :

Are rates named me personally December 17 good for present shipments?

GEO. RICE.

THE WESTERN UNION TELEGRAPH COMPANY,
January 7, 1886.

GEO. RICE, *Marietta, Ohio :*

For the present nothing but tariff rates will apply to shipments to the South.

JOHN C. GAULT.

QUEEN AND CRESCENT ROUTE,
Cincinnati, January 20, 1886.

GEORGE RICE, Esq.,
Marietta, Ohio:

DEAR SIR: I am in receipt of your memorandum of 19th inst. inclosing your acceptance No. 62414 on First National Bank of Marietta for \$57.60 in proposed payment of freight charges on car of oil, Cincinnati to Chattanooga, and consigned to McBrayer, Price & Co.

In view of our recent and frequent refusals to forward oil at other than established rates I am certainly astonished at your communication.

As yet no rates have been established from Ohio River south on oil, but no doubt will be in a short time. I have therefore to make this proposition, we to forward this car at the established rate, collecting at destination the difference between the amount of your check and such rate, and when the rates on oil are finally established, allow you the benefit of the difference. Am holding car for your answer.

Yours truly,

JNO. MEAGHER, C. C.

MARIETTA, OHIO, March 7, 1886.

JAMES R. OGDEN, Esq.,
Pool Commissioner, Louisville, Ky;

I have yours of February 13, in which you say the question of oil rates will be taken up next week, since which time no further word from you. I called at your office yesterday and found that you were out, so talked the matter over with your chief clerk, who understands the case fully. If you have not got the oil rates arranged now, why can't I ship now into Chattanooga, Knoxville, and Birmingham at as low net rate per hundred pounds in barrels as the Chess, Carley & Co. in tank cars (that pro rata). If not, why not am I to have equal net rates per pound on shipments of oil over your pooled lines of which you are commissioner, as the Chess-Carley Company; if not, why not? Please answer and greatly oblige.

Yours,

GEO. RICE.

MARCH 8, 1886.

GEORGE RICE, Esq.,
Marietta, Ohio:

DEAR SIR: (Coal oil rates.) Yours of the 7th inst. We are working on these rates and will have the figures out in a few days, but there is no reason why you should not have at any time the rates given to the Chess-Carley Company, but of course you will have to ship in tank cars to get the advantage of tank rates. The roads claim, and I think certainly have the right to select whether they prefer to carry oil in tanks or in barrels so long as the tank or the barrel rate is open to all parties.

Yours, truly,

JAMES R. OGDEN, Commissioner.

MARIETTA, OHIO, March 23, 1886.

JOHN C. GAULT, Esq.,
General Manager C., N. O. and T. P. R. R., Cincinnati, Ohio:

Replying to your favor 22d, Meridian shipments, would say that early in April I shall use tank cars for Meridian business, and prefer to use the \$60 rate on tank cars to Meridian, Miss.

Please advise.

Yours,

GEORGE RICE.

CINCINNATI, OHIO, March 25, 1886.

GEORGE RICE, Esq., Marietta, Ohio:

DEAR SIR: I am in receipt of your favor of the 23d inst., in reply to mine of the 22d; also your letter of the 24th inst. I note you say that early in April you shall use tank cars for Meridian business, and prefer to use the \$60 rate, and have to say in reply that I am not informed of the existence of a \$60 rate from Cincinnati to Meridian on oil in tank cars. We have never carried oil from Cincinnati to Meridian in tank cars, and therefore do not know what rate other lines have charged.

I very much regret that the pressure of business on the General Freight Agents' Committee has prevented them so far in taking up the question of oil rates, and

until they do I see nothing else for you to do but to continue to wait patiently the time when the matter shall be adjusted in the proper form.

I note, also, you call attention to a letter from us in September, 1885. I have heretofore advised you that whatever rates quoted to you prior to the 1st of January, 1886, have been revoked.

It will now be left to the General Freight Agents' Committee to arrange for a full set of rates on oil to southern points.

Yours, truly,

JOHN C. GAULT, G. M.

QUEEN AND CRESCENT ROUTE.

VICKSBURG, MISS., March 26, 1886.

GEORGE RICE, Esq., Marietta, Ohio :

DEAR SIR : (Rates on oil to Texas.) Yours of the 19th inst. I am surprised to find that Dallas, Fort Worth, and Houston are not included in the list of points to which you advise me you have made shipments via Saint Louis. Do you not ship to these points also ? I can give you a special rate of 28 cents per 100 pounds in car-loads from Vicksburg to Houston. This rate is via Shreveport and the Houston, East and West Texas Railroad, which has been recently completed. In regard to the rates from Saint Louis by the Mississippi Pacific lines, I am advised by their general freight agent that under the present classification the rate on oil in car-load is 5 cents less than fourth class, which would make through rates Saint Louis to Sherman, Jefferson, Fort Worth, and Dallas, 72 cents per 100 pounds. Please advise me if this is what you pay. I trust you will give us all the Texas business which you can throw in our way.

The Waters-Pierce Company are trying to work on our people by offering them a large share of their Texas business, which is now going via the Missouri Pacific, to induce them to shut you out of Texas, which, it is hardly necessary to tell, I do not desire to see done. Please let me hear from you promptly.

Yours, truly,

I. HARDY, A. G. F. A.

MARIETTA, OHIO, May 17, 1886.

Mr. JOHN C. GAULT,

General Manager C., N. O. and T. P. R. R., Cincinnati, Ohio :

MY DEAR SIR: Mr. George Rice, of this place, has laid before me a body of correspondence between himself on the one hand and yourself and other officers of your road on the other hand touching the matter of rates on oils shipped over your line to points in the South.

Although the correspondence has covered a period of about one year, no practical results seem to have been reached.

As I gather it, the point has been (on his part) to learn whether he could get the same rates as those accorded to other shippers—say, Chess, Carley & Co., Standard Oil Company, and the like. The answers which he has of late received from your people are to the effect that by shipping in tank cars he can get the same rates as others who ship in that way ; in other words, that "property carried under like conditions will be carried upon like terms," etc.

This would seem sound enough as a principle, but the application made in the discrimination between tank car and barrel shipments appears not to be based on that principle, for the difference between the two rates obviously has no relation to any actual difference in cost or convenience of transportation as between the two methods of shipment.

I write with the hope that, without further delay ; a better understanding and more satisfactory practical result may be attained, and that Mr. Rice may be enabled to get rates that will put his oils into southern markets as cheaply as the oils of other shippers get there, pound for pound, whether carried in tank cars or in barrels, with no other difference than those arising from actual difference in cost of carriage. I have advised Mr. Rice that he may expect such a result, as none can be better aware than the gentlemen connected with your management that such discriminations as have been heretofore made against Mr. Rice can not stand. I much prefer amicable adjustment to any resort to tribunals in which the true inwardness will be developed, and therefore ask that I may hear from you at your earliest convenience.

I am, sir, etc.,

W. B. LOOMIS,
Counsel for George Rice.

CINCINNATI, OHIO, May 24, 1886.

W. B. LOOMIS, Esq.,
Marietta, Ohio :

DEAR SIR: I beg to acknowledge the receipt of your favor of the 17th instant in the matter of rates on oil for Mr. Geo. Rice.

Am I to understand that your demand consists in obtaining from the railroad companies the same rate on oil in barrels as in tank cars? I note your reference to the "amicable adjustment, rather than resort to the tribunal, in which the true inwardness will be developed." I do not clearly understand what you mean by a reference to "the tribunal," as the difference established between the rates on oil in barrels and tanks is as old as the business and has been accepted since the introduction of tank cars.

Yours, truly,

JNO. C. GAULT,
General Manager.

MARIETTA, OHIO, May 26, 1886.

Mr. JOHN C. GAULT,
General Manager, C. N. O. & T. P. R. R., Cincinnati, Ohio :

MY DEAR SIR: Your esteemed favor of 24th instant is at hand. You ask whether I mean that oil should be handled in barrels at as low rates as in tank cars. I mean simply this, that no discrimination based on a difference in the method of carriage should be made beyond the actual difference in cost and convenience as between methods, and that discriminations of from 100 to 240 per cent. against barrel shippers can not rest upon any meritorious or defensible basis.

I therefore felt assured that whatever considerations might have furnished the motives of your subordinates in what has the appearance at least of a prostitution of your lines to the service of the Standard Oil Company for the destruction of other shippers, you would desire to at once correct such abuses if found to exist.

I have known that, as you say, a difference between barrel and tank car rates has been maintained for a long time. If that difference now made in favor of the cheapest and most convenient method and were only reasonable in extent there might be but little ground of complaint.

I shall await your reply, still hoping that you will make some terms whereby Mr. Rice can get his oils into Southern markets at less than ruinous rates.

I am, sir, very respectfully, yours,

W. B. LOOMIS,
Counsel

CINCINNATI, July 8, 1886.

GEO. RICE, Esq.,
Marietta, Ohio :

DEAR SIR: Replying to yours of the 6th instant I must say that I was not aware that you had asked for rates on oil in tank cars. I was under the impression that you only desired to ship oil in barrels, and the rates which I have given you on such oil have been as low as the lowest.

This whole question of rates is now in the hands of Commissioner Jas. R. Ogden, Louisville, and I most respectfully refer you to him.

Yours truly,

JNO. C. GAULT,
General Manager.

MARIETTA, OHIO, July 9, 1886

JNO. C. GAULT, Esq.,
General Manager C., N. O. & T. P. R. R. Cincinnati, Ohio.

Yours of July 8, before me. I am not at all surprised when you say, "I was not aware that you had asked for rates on oil in tank cars." None are so blind as those that won't see, and this carries with it its own significance. Under your suggestion I commenced a correspondence with James R. Ogden on February 9 last, just five months ago to-day, in regard to oil rates over your lines, and the same was closed with him on March 15 by his saying, "Hence, for the present at least, you will be compelled to get your quotations of rates from the initial roads." Since which time I have corresponded with you, and on March 26, June 18, June 21, June 29, and July 6, have asked you for rates on oil, and can't get them. In yours of yesterday you again refer me back to Ogden, and this, as I said before, carries with it its own significance. I have written Mr. Ogden, but don't expect to get the desired information any more than I would from you, but will keep on trying.

Yours,

GEO. RICE.

MARIETTA, OHIO, July 9, 1886.

JAMES R. OGDEN, Esq.,
Pool Commissioner, Louisville, Ky.:

Inclosed please find copy of letter from John C. Gault, esq., general manager Queen and Crescent. On February 9 last (five months ago) I commenced a correspondence with you in regard to oil rates over your pooled system, of which the Queen and Crescent was one of the principals, and which I was a patron of. On February 11, I again wrote you at Louisville. On February 13 you replied as follows: "I am not yet fairly started and will not be able to take up the question of coal oil rates until next week. Whatever rates we may name will apply to all parties."

On March 7 I again wrote you, and on March 8 you answered as follows: "We are working on these rates, and will have the figures out in a few days."

On March 12 I wrote you again, and on March 15 you replied: "In regard to furnishing you with rates, understand that these rates have been already furnished you by Mr. John C. Gault, of Cincinnati Southern Road, and I return herewith his letter which you left when you called upon me (see Gault's letter, September 7, 1885)." And you close this letter as follows: "Hence, for the present at least, you will be compelled to get your quotations of rates from the initial roads."

Under your compulsion of March 15 (almost four months ago), I have been corresponding with Mr. Gault on this subject, and am as yet unable to get the oil rates desired, and by the enclosed copy of a letter from him I am once more thrown back upon your mercy "like a shuttlecock," and now appear again before you, to know the next phase this question of oil rates will take. Have you now the power to give these rates, and will you give them to me and also will they be as low a net rate as is given to any other shipper?

I await your answer.

Truly, yours,

GEO. RICE.

MARIETTA, OHIO, October 28, 1886.

H. COLLEBRAN,
General Freight Agent C., N. O. & T. P., Cincinnati, Ohio:

Please name me tank-car rates on oil to Chattanooga, Knoxville, and Atlanta, and, if handy, to Birmingham.

Truly, yours,

GEO. RICE.

CINCINNATI, OHIO, November 5, 1886.

GEORGE RICE, Marietta, Ohio:

DEAR SIR: (Rates on oil.) Your favor of the 28th ultimo. The rates on oil in tank cars from Cincinnati to Chattanooga and Knoxville, Tenn., is 33 cents; Atlanta, 46 cents; Birmingham, Ala., 47 cents per hundred.

Yours, truly,

H. COLLEBRAN, G. F. A.

MARIETTA, OHIO, November 2, 1886.

JNO. C. GAULT, Esq.,
General Manager, C., N. O. & T. P. R. R., Cincinnati, Ohio:

Yours 10th before me, with circular letter No. 10 inclosed. Do I understand that hereafter tank oil in bulk will go at actual weight or by tank car, as formerly, and will there be any charge on return empty tank cars? If so, how much?

Truly, yours,

GEO. RICE.

NOVEMBER 13, 1886.

Subject: Oil traffic for the South.

GEORGE RICE, Esq., Marietta Ohio:

DEAR SIR: Your favor of the 12th instant, in reply to mine of the 10th instant, I have referred to the general freight agent for answer all the points raised by you, and have advised him to communicate with you direct.

Yours, truly,

JNO. C. GAULT,
General Manager.

CINCINNATI, OHIO, November 16, 1886.

GEORGE RICE, Esq.,

Marietta, Ohio:

DEAR SIR: (Rates on coal oil.) Your letter of the 12th instant, addressed to our general manager, has been referred to me.

I beg to inform you that the general commissioner of the Southern Railway and Steamship Association has issued a circular giving the carrying capacity of every tank car now in service, and requires the lines in his association to way-bill accordingly.

The question as to what rate will be charged on return empty tank cars is to come up at the next meeting of the association, so that an attempt can be made to reach a general charge.

Yours, truly,

H. COLLBRAN.

Q. (Handing paper to witness.) Please look at that paper and state what it is.—A. It is a list of prices made by the Standard Oil Company before my oils entered the places mentioned, and also the prices to which they were cut by the Standard Oil Company after entry of my oil. This list extends back probably a period of three to five years; and it give the prices of the oils at these various towns at the time I entered,—

Q. Into competition?—A. Yes, sir; and the prices that they went to afterwards. I can not give exactly the dates, but the list covers, as I said before, a period of from three to five years, and gives the prices in some thirty or forty towns.

Q. Is that list accurate?—A. Yes, sir; it was made up in my house.

Q. And under your direction?—A. Yes, sir; and I consider it accurate.

Q. What is that newspaper slip pasted on it?—A. Market reports published by the Petroleum Age, which is considered authority on prices of crude oil.

Mr. GOWEN. I offer that in evidence. It is as follows:

Prices made by Standard Oil Company, before my oils entered the points below, and also prices to which they were cut by the Standard after entry of my oils.

Names of towns.	Kinds and how delivered.	Prices.	
		Before entry.	After entry.
Paris, Tex	110° fire test, in barrels..... per gallon..	\$0.15	\$0.10
Do	175° fire test, in barrels..... do.....	.20	.13
Corpus Christi, Tex.....	110° fire test, (two 5-gallon cans in boxes) per case..	2.30	1.40
Laredo, Tex.....	do..... do.....	2.40	1.65
San Antonio, Tex.....	do..... do.....	2.30	1.75
San Marcos, Tex.....	do..... do.....	2.00	1.50
Calvert, Tex.....	do..... do.....	2.50	1.50
Weatherford, Tex.....	110° fire test, in barrels..... per gallon..	.18	.10
Do	110° fire test, two 5-gallon..... per case..	2.20	1.80
Victoria, Tex.....	do..... do.....	2.30	1.50
Athens, Tex.....	do..... do.....	2.20	1.50
Flatonis, Tex.....	do..... do.....	2.20	1.50
Jacksonville, Tex.....	do..... do.....	2.40	1.70
Whitesborough, Tex.....	(No competition.)		
Do	110° fire test, two 5-gallon..... per case..	2.40	-----
Clarksville, Tex.....	110° fire test, in barrels..... per gallon..	.15	-----
Do	(No competition; same freight rate as Paris.)		
Cleburne, Tex.....	110° fire test, two 5-gallon..... per case..	2.20	1.70
Austin, Tex.....	175° fire test, two 5-gallon..... do.....	3.20	1.50
Do	175° fire test, barrels..... per gallon..	.22	.10
Galveston, Tex.....	110° fire test, barrels..... do.....	.18½	.10
Do	110° fire test, two 5-gallons..... per case..	1.60	1.40
Round Rock, Tex.....	do..... do.....	2.30	1.70
Do	175° fire test, two 5-gallons..... do.....	3.30	2.20
Honey Grove, Tex.....	110° fire test, two 5-gallons..... do.....	2.20	1.80
Jacksonville, Tex.....	110° fire test, barrels..... per gallon..	.2	.15

Prices made by Standard Oil Company, etc.—Continued.

Names of towns.	Kinds and how delivered.	Prices.	
		Before entry.	After entry.
Ennis, Tex.	110° fire test, two 5-gallons..... per case.	\$2.20	\$1.50
Tyler, Tex.	do..... do.	2.20	1.50
Navasota, Tex.	do..... do.	2.20	1.50
Hubbard City, Tex.	do..... do.	2.20	1.50
Gilmer, Tex.	do..... do.	2.20	1.50
Little Rock, Ark.	150° fire test, in bulk..... per gallon.	.16	.05
Morrilton, Ark.	150° fire test, in barrels..... do.	.18	.06
Searcy, Ark.	do..... do.	.15	.11
Selma, Ala.	115° fire test, in barrels..... do.	.15	.06
Birmingham, Ala.	do..... do.	.13	.06
Anniston, Ala.	do..... do.	.14	.06
Mobile, Ala.	110° fire test, in barrels..... do.	.12	.06
Huntsville, Ala.	do..... do.	.16	.06
Memphis, Tenn.	150° fire test, in barrels..... do.	.16	.06
Union City, Tenn.	do..... do.	.16	.12
Nashville, Tenn.	do..... do.	.16	.06
Jackson, Tenn.	do..... do.	.15	.15
Knoxville, Tenn.	do..... do.	.16	.06
Chattanooga, Tenn.	do..... do.	.13	.06
Jackson, Miss.	110° fire test, in barrels..... do.	.16	.13
Vicksburg, Miss.	do..... do.	.11	.06
Holly Springs, Miss.	150° fire test, in barrels..... do.	.17	.12
Winona, Miss.	do..... do.	.16	.12
Grenada, Miss.	130° fire test, in barrels..... do.	.14	.10
Aberdeen, Miss.	150° fire test, in barrels..... do.	.13	.11
Natches, Miss.	110° fire test, in barrels..... do.	.11	.06
Meridian, Miss.	do..... do.	.14	.06
Water Valley, Miss.	do..... do.	.15	.11
Paducah, Ky.	150° fire test, barrels..... do.	.10	.07
Atlanta, Ga.	120° fire test, barrels..... do.	.15	.06
New Orleans, La.	110° fire test, barrels..... do.	.12	.06
Shreveport, La.	do..... do.	.14	.06

GEO. RICE

[Petroleum Age, Bradford, Pa.]

The following tables give a comprehensive view of the fluctuations of prices:

THE CRUDE MARKET.

Date.	1887.				1888.			
	Highest.	Lowest.	Fluctuation.	Average.	Highest.	Lowest.	Fluctuation.	Average.
January.....	\$0.72	\$0.67	\$0.04	\$0.71	\$0.92	\$0.81	\$0.10	\$0.86
February.....	.69	.59	.09	.63	.84	.74	.10	.79
March.....	.65	.61	.04	.63	.80	.71	.09	.75
April.....	.68	.62	.06	.64	.78	.70	.07	.74
May.....	.67	.61	.05	.64	.74	.63	.11	.68
June.....	.64	.60	.03	.62	.71	.62	.09	.66
July.....	.61	.54	.07	.59	.62	.54	.08	.58
August.....	.65	.56	.08	.60	.66	.59	.07	.62
September.....	.74	.62	.12	.67	.66	.61	.05	.63
October.....	.75	.67	.08	.70	.67	.61	.06	.64
November.....	.75	.69	.06	.73	.80	.62	.18	.71
December.....	.90	.78	.12	.84	.81	.65	.16	.73
1887.....	.90	.54	.36	.68				
1886.....	.92	.50	.42	.71				
1885.....	1.12	.68	.44	.88				
1884.....	1.15	.51	.64	.83				
1883.....	1.25	.94	.30	1.09				
1882.....	1.35	.49	.85	.78				
1881.....	1.60	.72	.88	.85				
1880.....	1.24	.70	.53	.94				

Q. Just state what is meant by that fraction $\frac{2}{3}$ where it occurs in this paper?—A. That is where two 5-gallon cans are put in a box.

Q. Do you remember that in September or October of 1887 you had a rate from Cincinnati to Knoxville?—A. Certainly.

Q. That was raised?—A. I had a rate of 24.4 per hundred pounds to Knoxville, Tenn.

Q. Over what road?—A. Over the Louisville and Nashville road—24.4 into Knoxville, where I had an agency. That rate was raised in September or October to 40 cents. I started this agency in Knoxville about January or February, 1887. Oil was selling then at 15 or 16 cents a gallon. Afterwards it went down to 9½ cents.

Q. Who reduced the price?—A. The Standard Oil Company is the only other competing concern in Knoxville.

Q. Then I understand you to say that they reduced the price to the extent you have named about the time your own freight rates were raised?—A. That did not occur absolutely at that time, but from the time I went in there up to that time, and so on, it was reduced, as I said, from 15 or 16 cents a gallon to 9½ cents.

Q. And within the same time your freight rates were raised?—A. Yes, sir.

Q. How much did that reduction amount to per barrel?—A. About 64 cents.

Q. That is the railroad rate?—A. Yes, sir; and the other reduction would be about \$2.75 cents per barrel.

Q. That is, your railroad rate was raised to such an extent as to cost you 64 cents more than it previously did to get your oil to Knoxville?—A. Certainly.

Q. And the Standard reducing the price of oil from 15 cents to 9½ cents made a difference to you of \$2.75 per barrel more?—A. That is about it.

Q. Do you know anything about the inspection laws of the various States with reference to the rates of inspection of oil and the charges made? Take Georgia, for instance.—A. I know that in the States of Georgia and Kentucky I paid 100 per cent. more for inspecting oil than it cost the Standard Oil Company, my oil being in barrels.

Q. And theirs in tanks?—A. Yes, sir.

Q. What is the inspection charge in Georgia?—A. It is 50 cents per barrel in car-load lots by law.

Q. And what is the charge in tanks?—A. Twenty-five cents per barrel.

Mr. BUCHANAN. Will you please give that rate again.

The WITNESS. The rate of inspection in Georgia is 50 cents per barrel in barrels by the car load.

By Mr. BUCHANAN:

Q. To whom is that paid?—A. To the inspector as a fee.

Q. Is he appointed by the State?—A. They have a commissioner of agriculture, who has charge of all the oils in the State. I know upon investigating the subject personally—I was there in 1886—I found that these tank cars were inspected at about two-thirds of their capacity.

Q. Do you mean two-thirds of their actual capacity?—A. Yes, sir.

Q. You mean the charge of inspection was on that basis?—A. Yes, sir; upon about two-thirds of what the tank cars actually held.

Q. What does that inspector actually do?—A. All there is to do in inspecting a car of oil, is to merely pierce a gimlet hole in the barrel

and take out about enough oil to made up a pint, or at least not to exceed a quart; and he then inspects that sample.

By Mr. CROUSE:

Q. Does he take that out of each barrel?—A. Yes, sir; out of each barrel?

Q. But he misses some barrels, does he not?—A. Oh, I misunderstood you. He only inspects five or six barrels out of each car-load.

By Mr. BUCHANAN:

Q. Does he mix those samples from the different barrels together?—A. Yes, sir; that is it. He will take five or six samples out of a car and mix them together, which is a pretty fair way of inspecting.

Mr. BUCHANAN. Much fairer than the price I should say.

By the CHAIRMAN:

Q. How is the inspection on the tank oil made?—A. The inspector just takes one sample out of the tank.

Q. What evidence of that inspection is made. I suppose there is something put on the barrels to show that they are inspected?—A. The inspector puts on a stamp, at least I think that is the intention. So far as I have heard, however, they have the stamps of the inspector at headquarters, and put them on themselves.

Q. I am not talking about headquarters, but what is the regular method. After the inspector has made his inspection he puts a brand on the oil, does he not?—A. Not on the tanks.

Q. I am not talking about the tanks, but about barrels.—A. Of course.

Q. When the oil is in tanks, what is the method?—A. They get the oil and barrel it and send it out, and that is all. The inspector may go and put his brand on these barrels or he may allow them to take the brand and brand the barrels themselves.

By Mr. BUCHANAN:

Q. Let me understand a little more distinctly about inspecting these barrels. The inspector will go to cars of, say, from 50 or 60 barrels each and take a sample from five or six of those barrels, and charge 50 cents on each barrel inspected, or does he charge on the whole car-load?—A. He charges for all the barrels in the car.

Q. How long has this been going on?—A. For years and years.

Q. Please state how long.—A. Ever since I have been in the business, so far as I can recollect. They do not inspect every barrel.

Q. Then on a car-load of 64 barrels you would have to pay \$32?—A. Certainly, and the man does it in half an hour. It takes him about half an hour to collect samples, and another half-hour to inspect them. It takes him about an hour for both.

By Mr. GOWEN:

Q. Mr. Rice, you pay in Georgia 50 cents for inspection on every barrel you ship?—A. I do.

Q. Does not the tank car pay 25 cents per barrel on only two-thirds of its capacity?—A. Yes, sir.

Q. If you have 100 barrels in a car you pay \$50?—A. Yes, sir.

Q. If they have 100 barrels in a car they pay only 25 cents a barrel on 66 $\frac{2}{3}$ barrels?—A. Yes, sir; about that.

Mr. BUCHANAN. At how much a barrel?—A. Twenty-five cents they pay.

Q. So that a car-load of 100 barrels would cost you \$50 while they

would only have to pay \$16?—A. There would be about that proportion on 100 barrels.

Mr. BUCHANAN. That inequality arises out of the Georgia law?—A. Yes, sir; so far as that State is concerned. It is the only State in which that percentage occurs.

Mr. GOWEN. Section 9 of the Georgia law provides as follows:

As full compensation for their services, the inspectors of oil shall receive one-half of one cent per gallon for inspecting in quantities in bulk of over four hundred gallons; one cent per gallon if in quantities in bulk of not more than four hundred nor less than two hundred gallons; if inspected in quantities less than two hundred gallons, one and one-half cent per gallon; if inspected in barrels, he shall receive one cent per gallon for inspecting ten or more barrels, and fifty cents per barrel if less than ten barrels are inspected.

The WITNESS. If he inspects one barrel or 10 barrels it is all the same thing. That is only a blind. He only inspects 5 or 6 barrels out of a car-load.

Mr. GOWEN. But in this law there is no reference to inspecting tanks at two-thirds of their capacity.—A. That is only custom. I got that information from the Commissioner of Agriculture.

Q. Going from Georgia to Kentucky, what rate do you pay there per barrel?—A. Twenty cents per barrel in barrels, and 10 cents per barrel in tanks.

Q. In lots of less than 50 barrels what do they charge? Is there not a higher charge in Kentucky if less than 50 barrels are inspected at one time?—A. Yes, sir.

Mr. GOWEN. I will read section 8 of the Kentucky law. It is as follows:

As full compensation for his services the inspector shall receive for inspecting said oils in quantities in bulk of 4,000 gallons or more, 10 cents per barrel of 50 gallons. If inspected in barrels, the inspector shall receive 20 cents per barrel for inspecting in lots of 50 barrels or more, and 30 cents per barrel for inspecting in lots of less than 50 barrels at one time.

That is the law of Kentucky?—A. Yes, sir.

Q. Now, Mr. Rice, state whether, in consequence of this great discrimination against barrels and in favor of tanks, you endeavored to get tank-cars to put on these roads?—A. Yes, sir.

Q. State to what company you applied. Did you apply to the Alleghany Valley Railroad?—A. Yes, sir; I applied to the Alleghany Valley Railroad and to the Green Line for cars, but could never get them.

Q. What answer did they give?—A. That they had not them to spare.

Q. State whether you applied to any one connected with the Cincinnati, Washington and Baltimore road?—A. Yes, sir; I have written to most of the lines to know whether if I would build tank-cars they would carry my oil as cheaply as the oil of the Standard Oil Company.

Q. Did you make that application to your initial road, Cincinnati, Washington and Baltimore?—A. I did.

Q. To whom?—A. To R. M. Fraser.

Q. What did he do with your communication?—A. He wrote me that he had turned the letter over to the president of the company, and he never answered it.

Q. Did you apply to the Louisville and Nashville?—A. Certainly.

Q. What answer did you get?—A. They made no answer.

Q. Did you apply to the Newport News and Mississippi Valley Railroad?—A. Yes, sir.

Q. Did they answer?—A. No, sir.

Q. Now, the Interstate Commerce Commission decided that they should carry oil at the same rate per one hundred pounds in barrels as in tanks?—A. Certainly.

Q. Since that decision was announced is there a difference now in rate between barrels and tanks, to your knowledge, upon any of these lines?—A. To a general extent there is not. That is, they are going on a basis of 315 pounds to the barrel instead of 325. The decision was 6½ pounds to the gallon, which is the regular rate adopted by the export trade in all the ports of the United States and foreign countries. Six and a half pounds is the established weight per gallon of oil, and the decision of the Commission was based upon that. But the Louisville and Nashville and other companies make an average of 6.3 pounds to the gallon, by including the refined oils, naphtha, and lubricating oils. Naphtha only weighs 5½ pounds to the gallon, but lubricating oils weigh 7½, and they make a general average from all of them of 6.3. The Newport News and Mississippi Valley Company, however, have come down to square business, so far as weight is concerned, and base their rates on 6½ pounds to the gallon for refined oils.

Q. And the other lines?—A. They make an average.

Q. Which is under the weight?—A. Well, it is not in conformity with the decision. It is not basing it on the actual weight. Lubricating oil is heavier than any one of the other products. Naphtha is only a small proportion of the products of petroleum.

Q. Tell us what percentage of naphtha is taken from petroleum?—A. In crude oil there is about 10 to 15 per cent.

Q. And of illuminating oil?—A. Seventy-five to 80 per cent.

Q. Did you make application to tank-car builders to know whether you could build cars or buy them?—A. Yes, sir; to the Milton Car Works and to the Harrisburg Car Works.

Q. Did you find any difficulty in getting cars from them due to a belief on their part that you would not be permitted to use the cars on the railroads on account of your opposition to the Standard Oil Company?—A. Yes, sir; I got a letter from the Milton Car Works. I wanted to get tank-cars built on the same basis as the railroad, on a car trust, by paying 25 per cent. down and paying the balance in three to five years.

Q. That would involve capitalists furnishing money on car-trust certificates?—A. Yes, sir.

Q. Look at this letter and see if it is the letter from the Milton Car Works.—A. Yes, sir.

Q. This is the original letter?—A. Yes, sir.

MR. GOWEN. I offer that letter in evidence. It is as follows:

S. W. Murray, manager; Charles W. Dickerman, secretary and treasurer. William R. Kramer, Richard C. Carter. Office of the Milton Car Works, Murray, Dougal & Co., Limited]

Dictated.

MILTON, PA., December 6, 1887.

GEORGE RICE, Esq.,
Marietta, Ohio.

MY DEAR SIR: We have just wired you as follows: "Our financial friends decline to advance the money. We can not build them except for cash," which we confirm.

Our Mr. Dickerman returned this morning, and after using every exertion, failed to negotiate the deferred payments on your cars. Our financial friends state that they have declined to do this mainly on account of some supposed controversy which they claim you have had with the Standard Oil Company and various railroads in the West. They feared you could not use these cars to advantage if the railroads should be hostile to your interests.

We regret this very much, as we have been to considerable trouble and expense in making arrangements to build the cars, and are now seriously disappointed at the

refusal of the parties to take the deferred payments, as they had partially promised to do.

We should be very much pleased to build these cars for you if you can negotiate the notes with your friends and pay us the cash.

Please let us hear from you at your earliest convenience concerning your ability to raise the money.

Yours, very respectfully,

MURRAY, DOUGAL & Co., Limited.

Q. You subsequently, I believe, did get some cars from the Harrisburg Works.—A. I got ten cars.

Q. How late did you get those cars?—A. I only got them in January last.

Q. State whether or not, finding those through lines to the south closed against you, you endeavored to get rates by circuitous routes.—A. Certainly I did.

Q. I have requested you to put this in writing, because it involves comparison of rates and mileage. State whether these statements are statements prepared by you showing your efforts to get rates on long distances so as to circumvent the short line and get into their territory notwithstanding the discrimination?—A. Certainly, these are all statements that I had prepared so as to get at the exact facts as close as possible, and I have put them down in writing, and these are correct.

Q. And do those statements properly show all the letters involved in those applications?—A. Certainly.

Q. In one case, spoken of by Mr. Harriot the other day, and in another one by Mr. Hass, how long after the rate that was named to you by that circuitous route had been made use of by you was it before they forced you to stop shipping?—A. I started the first car on December 1, 1886, and on December 15 I got a dispatch from Mr. Harriot canceling the rate.

Q. What length of mileage was that circuitous route as against the direct mileage through the territory of these roads which had discriminated against you?—A. In some cases over double the distance. It was double the distance to Chattanooga for instance, and still I got these rates at equal figures as I had paid previous to July, 1886.

Q. You got rates on circuitous routes in some instances double the distances, that enabled you to get your oil in as cheaply as over the short line before the change of tariff?—A. That is true.

Mr. GOWEN. I offer this statement in evidence.

It is as follows:

I have been obliged to ship my oils by all manner of circuitous routes in order to avoid and get around the frequent advances made on me in freight rates, and when once around shut out again and again. After the notable rise in freight rates July 15, 1886, from 10 to 160 per cent. and none on the Standard Oil Company, there was only one more opening or avenue left me to get my oil products into Southern markets, and that was via Cincinnati, Washington, and Baltimore, 12 miles to Parkersburgh, and thence via Baltimore and Ohio east to Harper's Ferry, Strasburgh, and via Piedmont Air Line.

After several months' negotiations with the Baltimore and Ohio people at Baltimore I finally succeeded in getting rates much lower by this roundabout course and greater distance, as the following figures will show. On November 15, 1886, the Baltimore and Ohio road named me the same rates per 100 pounds on both barreled oil and that carried in bulk by tank-car. These rates are from Marietta to the following points:

To Charleston, S. C., 43 cents per 100 pounds, or \$1.72 per barrel, as against direct route via Cincinnati, Washington and Baltimore, and Cincinnati, New Orleans and Texas Pacific Railroad, of 30 cents per barrel by the former road and 58 cents per 100 pounds by the latter road, or \$2.62 per barrel as against \$1.72 per barrel, or 52 per cent. in favor of the Baltimore and Ohio route.

To Augusta, Ga., 43 cents per 100 pounds, or \$1.72 per barrel, Baltimore and Ohio, against 56 cents per 100 pounds Cincinnati, New Orleans and Texas Pacific, and 30

cents per barrel Cincinnati, Washington and Baltimore, or \$2.50 per barrel, or 48 per cent. in favor of Baltimore and Ohio route.

To Chattanooga, Tenn., 30 cents per 100 pounds, or \$1.20 per barrel, Baltimore and Ohio, as against 30 cents per barrel Cincinnati, Washington and Baltimore, and 36 cents per barrel Cincinnati, New Orleans and Texas Pacific, or \$1.26 per barrel, or 6 cents per barrel in favor of Baltimore and Ohio route. This was carried 1,186 miles as against 542 direct.

To Athens, Ga., 35½ cents per 100 pounds, or \$1.42 per barrel, Baltimore and Ohio, as against 56 cents per 100 pounds via Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.54 per barrel, or 80 per cent. in favor of Baltimore and Ohio route.

To Columbia, S. C., 45 cents per 100 pounds, or \$1.80 per barrel, Baltimore and Ohio, as against 56 cents per 100 pounds Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.54 per barrel, or 41 per cent. in favor of Baltimore and Ohio.

To Macon, Ga., 42 cents per 100 pounds, or \$1.68 per barrel Baltimore and Ohio, as against 56 cents per 100 pounds Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.54 per barrel, or 51 per cent. in favor of Baltimore and Ohio route.

To Montgomery, Ala., 39 cents per 100 pounds Baltimore and Ohio, or \$1.56 per barrel, as against 59 cents per 100 pounds via Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.66 per barrel, or 70 per cent in favor Baltimore and Ohio route.

To Birmingham, Ala., 30½ cents per 100 pounds or \$1.22 per barrel Baltimore and Ohio, as against 59 cents per 100 pounds via Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.26 per barrel, or 118 per cent. in favor Baltimore and Ohio route. I have an agency at this point. This was carried 1,213 miles as against 685 direct.

To Atlanta, Ga., 33½ cents per 100 pounds via Baltimore and Ohio, or \$1.34 per barrel, as against 56 cents per 100 pounds via Cincinnati, New Orleans and Texas Pacific, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.54 per barrel, or 90 per cent. in favor Baltimore and Ohio. I had an agency here at this time. This was carried 1,046 miles as against 682 direct.

To Anniston, Ala., 30½ cents per 100 pounds by Baltimore and Ohio, or \$1.22 per barrel, as against 59 cents per 100 pounds, and 30 cents per barrel Cincinnati, Washington and Baltimore, or \$2.66 per barrel, or 118 per cent, in favor Baltimore and Ohio route.

On December 1, 1886, I commenced to ship oils by Baltimore and Ohio route. On December 15 the rates were canceled per following telegram:

[Telegram.]

BALTIMORE, MD., December 15, 1886.

GEO. RICE (*Ohio Oil Works*):

See your letter 13th. I find that for the present we will have to withdraw rates on oil to Southern points, as the various lines in interest will not carry them out.

FRANK HARRIOT,
G. F. A. (B. and O. R. E.).

[Telegram.]

MARIETTA, OHIO, December 16, 1886.

FRANK HARRIOT,
Baltimore, Md.:

What particular lines refuse to carry out previous agreements? Also state present rate to Chattanooga.

GEO. RICE.

[Telegram.]

MARIETTA, OHIO, December 17, 1886.

SOL HAAS,
Piedmont Air Line, Richmond, Va.:

Harriot withdraws rates because connecting lines refuse to carry them out. Why do you object?

GEO. RICE.

[Telegram.]

RICHMOND, VA., December 18, 1886.

GEO. RICE:

Have requested Mr. Harriot to continue the oil rate. Overcharge will be promptly refunded.

SOL HAAS,
Traffic Manager Piedmont Air Line.

[Telegram.]

MARIETTA, OHIO December 20, 1886.

FRANK HARRIOT,

G. F. A., B. and O. R. E., Baltimore, Md.:

Sol Haas telegraphs me the 18th that he had requested you to continue the oil rate. Do you now object to take my oil at rates given me November 15; if so, for what reason?

GEO. RICE.

[Telegram.]

BALTIMORE, MD., December 21, 1886.

GEO. RICE:

The reasons are, shortage of cars, the impossibility of getting cars returned from the South, the overcharges, and the low rates for our company. This is all against the traffic.

FRANK HARRIOT,
G. F. A., B. and O. R. E.

[Telegram.]

MARIETTA, OHIO, December 20, 1886.

SOL HAAS,

Traffic Manager, Piedmont Air Line, Richmond, Va.:

Harriot refuses to continue oil rate. This sudden abrogation of rates, after I had made arrangements in accordance therewith, and had commenced to ship, is simply outrageous. What have you to say?

GEO. RICE.

[Telegram.]

RICHMOND, VA., December 21, 1886.

GEO. RICE:

We do not control rates from Marietta to Parkersburgh, but we are willing to accept our proportion of the proposed rates from Marietta on oil, and so have notified the Baltimore and Ohio people.

SOL HAAS,
Traffic Manager Piedmont Air Line.

Circuitous routes (other than by the Baltimore and Ohio) I was forced to take in order to get my oils into certain markets at a less rate in order to survive:

	Miles.
Marietta to Birmingham:	
Cincinnati Washington and Baltimore to Cincinnati	207
Cincinnati, New Orleans and Texas Pacific to Chattanooga	335
Alabama Great Southern	143
Direct route	685

Circuitous:

Cincinnati, Washington and Baltimore to Cincinnati.....	207
Ohio and Mississippi to Louisville.....	128
Cincinnati, Ohio and Southwestern to Rives, Tenn.....	265
Mississippi and Ohio to Lauderdale.....	288
East Tennessee, Virginia and Georgia to Selma.....	95
Cincinnati, Selma and Mobile to Akron.....	71
(Cincinnati, New Orleans and Tennessee), Alabama Great Southern to Birmingham (Akron to Birmingham, 81 miles).....	81
	<hr/> 1,155

Longer route..... 470

Per barrel

Tariff rate:

Cincinnati, New Orleans and Texas Pacific, 59 cents, or.....	\$2.35
Marietta to Cincinnati.....	.30

2.66

Rate to Selma.....	\$1.50
15 cents per 100 pounds thence.....	.60
	<hr/> \$2.10

A saving of..... .56

Carried this oil over seven different lines and 470 miles further, as against two direct lines, and saved 56 cents per barrel.

Miles.

Marietta to Selma:

Over five lines (circuitous).....	1,003
Direct route.....	837

Longer haul..... 166

Per barrel

Tariff rate:

Cincinnati, New Orleans and Texas Pacific, 59 cents, or.....	\$2.35
Marietta to Cincinnati.....	.30

2.66

Rate via circuitous route..... 1.50

Saved..... 1.16

Since advance in rates July 15, 1886, tried to get into Selma via Mobile and river but shut out by an old Government act.

Miles.

To Meridian:

Cincinnati, Washington and Baltimore; Ohio and Mississippi; Cincinnati, Ohio and Southwestern; Mississippi and Ohio (circuitous route).....	927
Direct route.....	837

Longer haul..... 90

Per barrel

Tariff rate:

Cincinnati, New Orleans and Texas Pacific, 66 cents per 100 pounds, or... ..	\$2.64
Marietta to Cincinnati.....	.30

2.94

Rate by circuitous route..... 1.00

A saving of..... 1.94

Miles.

To Montgomery:

Circuitous route.....	1,053
Direct route.....	807

246

	Per barrel.
Tariff:	
Cincinnati, New Orleans and Texas Pacific, 59 cents, or	\$2.36
Marietta to Cincinnati .....	.30
	<hr/> 2.66
Rate to Selma.....	\$1.50
Selma to Montgomery.....	.40
	<hr/> 1.90
	<hr/> .76
	Miles.
To Jackson, Miss:	
Circuitous route, via Harriston	1,068
Direct route	933
	<hr/> 135
	Per barrel.
Tariff, 66 cents per 100 pounds, or.....	\$2.64
Marietta to Cincinnati .....	.30
	<hr/> 2.94
Rate, circuitous route	1.50
	<hr/> 1.44
	Miles.
To Nashville:	
Marietta to Cincinnati (Cincinnati, Washington and Baltimore)	207
Cincinnati to Nashville (Louisville and Nashville)	295
	<hr/> 502
Circuitous (five different lines, as follows):	
Cincinnati, Washington and Baltimore	287
Ohio and Mississippi to Odin	275
Illinois Central to Cairo	121
Memphis and Ohio to Union City	46
Nashville, Chattanooga and Saint Louis.....	156
	<hr/> 805
	<hr/> 303
	Per barrel.
Rate by direct route	\$1.60
Marietta to Cairo	\$0.60
Cairo to Nashville, 18 cents on 380 pounds.....	.68.4
	<hr/> 1.28.4
Saving of.....	.31.6

Q. What do you know about the knowledge possessed by your enemies in the trade, or your rivals the Standard Oil Company, of the fact of your shipments over the lines of these railroads?—A. Well, I know that in the exhibits which were put in in the quo warranto cases it was shown that R. M. Fraser, the general freight agent of the initial line, the Cincinnati, Washington, and Baltimore had notified Mr. L. A. Cole, president of the Camden Consolidated Oil Company, of Parkersburgh, W. Va., of all rates which were given me. If there were any changes made, they got notice immediately. I have exhibits here to show that.

Q. Were you here yesterday?—A. Yes, sir.

Q. When Mr. Carley was being examined?—A. Yes, sir.

Q. Do you remember the production of the letter written by Chess, Carley & Co. to Mr. Culp, referring to a shipment of oil made by you at the fifth-class rate, amounting to some \$41 and something, which the latter alleged had probably slipped through without observation or notice, and asking him to turn on another screw?—A. Yes, sir.

Q. What was the date of that letter?—A. June 16, 1881.

Q. State whether after the date of that letter your rates were raised on that road?—A. Yes, sir; my rates were raised over 50 per cent. within five days. Before that letter we had a rate of 15 cents per 100 pounds from Louisville to Nashville, and immediately afterwards it was raised to 90 cents per barrel.

Q. That is, a rate of 15 cents per 100 pounds, calculating 375 pounds to the barrel, would make 56½ cents per barrel, and that rate was raised from 56½ cents to 90 cents?—A. Yes, sir.

Q. Immediately after the date of that letter?—A. Yes, sir.

Q. Was it necessary to turn on more than one screw in that direction to put a stop to your business?—A. One was sufficient.

Q. Now, since the decision of the Interstate Commerce Commission, can you tell us by looking at these documents what the rates of the Missouri Pacific were?—A. Well, these are some tariff sheets that I received.

Q. From whom?—A. Missouri Pacific. This one, dated December 15, 1887, is in regard to rates, and the one dated March 15, 1888, is in regard to classification. I find in looking these over that in less than car-load lots they charged in wooden barrels \$1.20 per 100. This is under certain classes—in car-load lots the classification of iron barrels and wooden barrels is the same. That is, Class A; but in less than car-load lots the classification on oil in wooden barrels is \$1.20 as against \$1 in iron barrels.

Q. But on full car-load lots the rate is the same on wooden and iron barrels?—A. Yes, sir.

Q. When did they go into effect?—A. March 15, 1888.

Q. Now, therefore, that would be a discrimination against the small shipper in less than car-load lots, who is compelled to ship in wooden barrels?—A. Certainly.

Q. State whether or not the Standard Oil Company have places in the South or Southwest where they manufacture iron barrels.—A. I understand they are manufacturing iron barrels in a small way, and that this is only a recent occurrence. I do not know what they may do in that way hereafter.

Q. But state, as a fact known in business, that when a man buys a barrel of oil in iron barrels and uses it in a small store or shop, he can not have that barrel filled again?—A. Yes, sir.

Q. And have not the Standard Oil Company places where they fill those iron barrels?—A. Oh, yes.

Q. Is there not a considerable charge made for these iron barrels?—A. To the consumer or dealer?

Q. Yes.—A. I do not know that as a fact.

Q. In the interstate commerce decision in your case, that oil in barrels should be carried at the same rate as oil in tanks, do you know any reason, as a business man or shipper of oil, why they should make on less than car-load lots a greater rate on wooden barrels than on iron barrels?—A. Of course not; there is no reason for it.

Q. What is the rate on cotton-seed oil given in that tariff sheet?—A. It is 40 cents a hundred.

Q. That is in tank cars?—A. I suppose naturally it would be 40 cents a hundred no matter how it is carried, whether in tank cars or in barrels, just the same as the rate of 67 cents on coal oil.

Q. In that tariff the rate on coal oil carried in bulk is 67 cents per hundred pounds is it not?—A. Certainly.

Q. And the rate on cotton-seed oil is 40 cents?—Yes, sir; it is put under the lowest classification in this tariff sheet, and yet it is worth five times as much a coal oil.

By Mr. SMITH:

Q. I would like to know on what distance?—A. No distance; this is classification.

By Mr. GOWEN:

Q. But those rates of 40 cents and 67 cents respectively would apply to certain distances?—A. The distances vary, but those rates apply in the way of percentages of rates.

By Mr. CROUSE:

Q. But distance must have something to do with it, too?—A. Oh, yes in a general way.

By Mr. GOWEN:

Q. What is the classification on car-load lots of coal oil—what classification is that in?—A. That is in Class A.

Q. What classification is cotton-seed oil in?—A. Class E, lowest of all.

Q. Does it cost any more to haul a tank full of petroleum than to haul a tank full of cotton-seed oil?—A. I do not see how it could possibly. I am not a railroad man, but from general common sense I do not think it could.

Q. Do you not think you are entitled to have your coal oil carried at the same rate as cotton-seed oil?—A. Certainly.

Q. Has not cotton-seed oil three or four times the value of petroleum?—A. Yes, sir.

Q. State whether you have not had during the last couple of years with all these Southern and Western lines that you have spoken of a considerable difficulty in having your business conducted properly?—A. Yes, sir; very great difficulty indeed. It has required a very great deal of correspondence, which it seems to me ought to have been unnecessary.

Q. Just look at this and see what it is?—A. This shows that it took seventeen telegrams and six letters to move one car of oil from Marietta to Knoxville; and the reason was, that the Louisville and Nashville had given me within the last year a rate of 24.4 cents a ton per hundred pounds from Cincinnati to Knoxville; afterwards they raised it to 40 cents. When that car was shipped it was sent to Cincinnati, and the letter was written with the expectation that it would go through at the original rate. At that time the rate had been advanced, and Mr. Brant Arnold, the general agent of the road, demurred to its going through at the old rate as the rate had been advanced; that resulted in a great many telegrams and letters. Finally, we ordered the car shipped at Louisville rates to Louisville and from Louisville to Knoxville, which, added to the rate from Cincinnati, made 32 cents per hundred as against 40 cents. This delay occurred largely at Cincinnati, because I wanted to go back to the rate I had had before.

Q. State whether or not this correspondence was contemporaneous with your suit in the Interstate Commerce Commission?—A. It was subsequent to the filing of that suit.

Q. But not subsequent to the decision?—A. No, sir.

Q. While the suit was pending?—A. Yes, sir.

Q. Had you any reason to suppose that that was turning another

screw to affect you in your suit? Had you ever had such an amount of correspondence in moving one car before?—A. No, sir.

Q. If you had had no difficulty in getting the same freights as the Standard Oil Company, or the Chess-Carley Company, could you have run your refinery to its full capacity?—A. Certainly.

Q. Could you have increased your works?—A. Yes, sir; in a general way we could have increased them largely.

Q. Are not your expenses less than theirs?—A. Yes, sir.

Q. Since July, 1886, to what extent have you been able to run your refinery?—A. To a moderate extent; I am running it very moderately now. I have not been able to increase the business.

Q. Do you run it to one-half its capacity?—A. One-third to one-half generally. I think in one year we ran up to about 65,000 barrels of crude.

Q. Mr. Mitchell was examined this morning and identified certain letters from him to you. Do you remember of a correspondence between you?—A. Yes, sir.

Q. Will you look at those letters and say whether you can furnish the originals or copies of your letters to him?—A. Certainly.

Q. Within what time?—A. Right away; I may have them up in my room. If not, I will furnish them as soon as I can get them from Marietta.

Q. Will you please take those letters and supplement them by all the originals of the letters written to you?—A. Certainly, I will do that.

By the CHAIRMAN:

Q. To what period does this comparative statement showing the rates of the Saint Louis, Iron Mountain, and Southern Road as charged to you and to the Standard people apply?—A. Since the passage of the interstate-commerce act.

Q. There is nothing included in here before the passage of the interstate-commerce act?—A. No, sir.

Mr. BLAIR. And prior to the decision in the recent case.

The WITNESS. Of course. It is since the passage of the interstate act, and of course that would be prior to the decision.

The CHAIRMAN. It applies to the period between the enactment of that law and the decision made by the Interstate Commerce Commission in your cases?—A. Yes, sir.

By Mr. SMITH:

Q. As I understand, this much-corresponded-about car-load of oil was shipped by you at the local rates to Knoxville?—A. We shipped it first to Cincinnati, then by local rate to Louisville, and then from Louisville to Knoxville.

Q. And it was cheaper that way by the local rates than by the through rates?—A. Yes, sir; local to Louisville. They did not have local rate to Marietta. The rate from Louisville to Knoxville was 24 cents. We ordered the car shipped from Cincinnati to Louisville, paying a local of 8 cents, which added to the 24 cents from Louisville to Knoxville made a rate of 32 cents as against 40 cents from Cincinnati through.

Q. What I am trying to get at is whether the local rates were less than the through rates?—A. Yes, sir.

Q. It is generally the reverse in other places?—A. That is just it exactly.

By Mr. BUCHANAN:

Q. This car you speak about that gave rise to so much correspondence was a car originally billed from what point to what point?—A.

From Marietta to Knoxville, Tenn. From Cincinnati the rate had been 24.4 cents to Knoxville, and then it was raised to 40 cents.

Q. And that car was billed at what time?—A. I do not know exactly, but the bill of lading would show the date, but this is merely the correspondence.

Q. Your letter purporting to inclose draft for freight is dated October 28, 1887?—A. That is about the time, then.

Q. Your rate previous to that date had been 24.4 per hundred pounds?—A. Certainly.

Q. And on October 26, or thereabouts, the rate was raised to 40 cents?—A. Yes, sir,

Q. And you sent a draft for \$64.05 to prepay the freight?—A. From Cincinnati to Knoxville; yes, sir.

Q. At the 24.4 rate?—A. Yes, sir.

Q. And were you not on the 29th informed that the rate had been raised to 40 cents and requesting you to send check for the difference?—A. I should judge so.

Q. Here is a telegram from Brent Arnold?—A. He is the agent at Cincinnati.

Q. (Reading:)

Have you not been advised that the .24 rate is cancelled? Please send me check at the rate of .40 per hundred pounds. Answer quick.

Did you send the check for the difference?—A. No, sir; I did not. I sent the car by the local rate to Louisville, and then by the 24.4 rate from Louisville to Knoxville.

Q. Did this correspondence largely arise from your not sending the check for the difference in the rates?—A. It did not altogether.

Q. In other words, you billed a car of oil at a certain rate and prepaid the freight at a certain rate by inclosing a check to the company, and did they not advise you that prior to that billing the rate had been increased, and that they could not forward it at the price or for the amount of money which you had forwarded, and required you to forward a check for the difference?—A. Yes, sir.

Q. Did you forward that check?—A. No, sir.

By Mr. GOWEN:

Q. What was the rate from Marietta to Cincinnati?—A. I think 32 cents.

Q. What was the rate from Cincinnati to Knoxville?—A. It had been 24.4 per hundred pounds.

Mr. CROUSE. And it was for that you sent the check?—A. Yes, sir.

By Mr. BUCHANAN:

Q. And did not Brent Arnold on November 29, send you a dispatch to the effect, as I have just read, that the rate had been raised to 40 cents?—A. Certainly he did.

Q. And you did not send a check for the difference?—A. I did not.

Q. Why did you not conform to the increased rate?—A. I thought I ought to have it at the same rate as before. I did not see why it should be advanced.

Q. But when you had been advised that that company had raised the rate did you suppose that you could remake their rate for them?—A. No, sir; I did not suppose that; but as they had made a rate of 24.4 I considered that that must have been a paying rate.

Q. And this correspondence arose from your attempt to get that car through at 24.4 instead of 40 cents?—A. Yes, sir; that was the whole contest, to get that car through at the same rate as I had paid before.

Q. Independent of any rate the company might have made in the meantime?—A. Certainly; independent of any changes they might have made.

Q. You spoke about a difference in rates in wooden and iron barrels in the Missouri Pacific schedule. I have examined those schedules and would like to know whether these iron barrels are of the same capacity as the wooden barrels?—A. I do not know. These iron barrels are a new thing in the oil trade.

Q. It has been testified before this committee that shipment in barrels was not favored by transportation companies, because there was always more or less leakage and they were compelled to carry them in coal oil-cars. Do you know whether that is so?—A. I should say that iron barrels were safer to carry oil in than wooden barrels, but I consider that any leakage which might occur from oil in wooden barrels was a very small excuse. It does not amount to anything in reality. I never heard anybody complain before these suits were brought that barrel rates should be higher because of leakage. I never had any correspondence about it, nor heard a word about it. It is merely an excuse; it don't amount to anything.

Q. I would like to know whether in point of fact such leakage does occur in transportation in wood and whether box cars are likely to be permeated by it so that other goods would be damaged?—A. It might in certain extreme instances happen that barrels of oil not put up in proper shape might leak in certain heated sections of the country; it might occur, but I mean to say in a general way it does not amount to anything. All my oil, I ship in barrels principally. We load the barrels ourselves and it is unloaded by the consignee.

Q. And you say that, having reference to the claim of the company that they would rather carry oil in tanks because in that way they are not put to the expense of unloading as they are when it is carried in barrels?—A. There is no difference. I have to load my barrels myself at the refinery, just the same as if it was in tanks; and wherever I have agencies and sell oil those agents have invariably unloaded their own cars. There is no question about it. There is no difference between tanks and barrels so far as loading and unloading is concerned.

Q. You produced a letter from Murray, Dougal & Co. They speak there about their financial friends. Have you any further information about what they mean by that except the letter itself?—A. No, sir.

Q. And they say they have had considerable trouble in endeavoring to negotiate your deferred payments for those cars. What do they mean by that?—A. I suppose they mean that the parties from whom they were to get the advances to build these cars did not want to risk their money in those deferred payments, because of some controversy I had had with the Standard Oil people, in consequence of which I might not be able to use the cars.

Q. "Our Mr. Dickerman," they say, "returned this morning, and after using every exertion failed to negotiate the deferred payment on your cars." Does that refer to deferred payment of yourself or of the company or who?—A. My proposition was that I would like to get some tank cars built and pay 20 or 25 per cent. down, and that they should carry the balance in payments running three or five years, the same as a car trust.

Q. Is it your understanding, then, from this letter, that they undertook to tell you that their Mr. Dickerman, after using every exertion, failed to negotiate those deferred payments?—A. Yes, sir; that is my under-

standing. They failed to negotiate with the parties who were to furnish the money.

Q. I understand this letter has been produced as an evidence of your difficulties in providing yourself with tank cars; and, inferentially, those difficulties arose from some influence exerted by the Standard Oil people or some of their friends. Unless it is offered in that light I fail to see its pertinency to the investigation. And now I would like to know whether it is offered in that light, or rather whether you have produced it in that light; and if so, whether there is anything in this statement of these parties that they could not go on building your cars because they could not negotiate these deferred payments?—A. I take it from that that they could not go on and build those cars, because they could not get the requisite amount needed to build them. So far as this letter being offered in evidence is concerned, Mr. Gowen can do as he pleases in regard to that. It is simply a letter I had from the Milton Car Works showing the difficulty I had in procuring tank cars.

Mr. BUCHANAN. But it is no earthly object to this committee to ascertain whether you had sufficient credit with financial people to build those cars, or whether that company had sufficient credit. The only object our investigation is to ascertain whether any impediment was put in your way by this trust or combination now being investigated?

The WITNESS. I can not say positively that the Standard Oil Trust was at the bottom of it. The letter shows for itself.

Mr. SMITH. The letter says: "Our financial friends state that they have declined to do this, mainly on account of some supposed controversy which they claim you have had with the Standard Oil Company." That is the reason they would not advance the money. They were afraid to do so because of that controversy, were they not?—A. I suppose so.

Mr. GOWEN. They give the reason of their fear in that letter.

Mr. BUCHANAN. But my point is as to the situation of the company itself; whether their refusal was because of the financial situation, however brought about; or whether it was the intervention of the Standard Oil Company?—A. I have to rely upon the letter to speak for itself.

Q. I simply wanted your understanding of the facts as they exist.—

A. I take it in a general sense that they thought it would not be safe for them to advance this money on account of these controversies I have had with the Standard Oil Company.

Q. And in point of fact, at that time you had been involved also in controversies with different railroads, because they speak of the railroads in that letter?—A. Certainly.

Q. To what date does that first statement you produced here refer, being a comparative statement showing Louisville and Nashville rates charged to the Standard Oil Company and George Rice, pound for pound?—A. That is made up from the evidence taken in the Interstate Commerce Commission case.

Q. To what dates do these differences refer?—A. From April 5, 1887, to some time in November, 1887.

Q. And from that statement you gathered, that at those dates such differences existed in the charges made by these different companies to the Standard Oil Company, and to you from Louisville to the points named?—A. Certainly; there is no question about that. That is absolute testimony.

Mr. GOWEN. I understand with reference to the shipment of the one car spoken of that you were endeavoring to utilize two local rates?—

A. Certainly.

Q. Which together would not have made as much as the through rate?—A. That is true.

Q. Did they raise either of those local rates, or attempt to apply the through rate?—A. They raised the rate from Cincinnati to Knoxville, which might have applied as a through rate.

Q. They raised the through rate?—A. Yes, sir.

By Mr. CROUSE :

Q. I think the questions have confused the witness a little in that regard. Was is not a fact that there was a rate from Cincinnati to Knoxville at 24 cents and a fraction?—A. Certainly.

Q. And that was the through rate and not the utilization of two local rates?—A. Certainly.

Q. And subsequently the rate was raised to 40 cents?—A. Certainly.

Q. And having enjoyed the former rate, you hoped to get a car through before the 40-cent rate took effect? A. Certainly.

Q. Failing to do that you utilized a local rate to Louisville at 8 cents, and from Louisville to Knoxville at 24 cents, thus getting the car through at a rate of 32 cents?—A. Yes, sir.

Q. One question more with reference to your attempt to get cars built. You did not seek on so small a scale to create a car trust, properly speaking, in the purchase of these cars?—A. No, sir; certainly not.

Q. But you, in a business way, sought to have them build a certain number of cars and receive their pay on the installment plan, which would be similar to a car trust; and this they would have been willing to do had they been able to find somebody to carry your notes. This, as I understand, they were unable to do, and their financial friends gave as a reason the controversies which you had had with the Standard Oil Company, on account of which you would not be able to use the cars?—A. Certainly.

By Mr. GOWEN :

Q. Was it not understood that your deferred payments should be secured upon the cars?—A. Yes, sir.

Q. And that the people who advanced the money should have the security of the cars?—A. Yes, sir.

Q. The same security as a car trust?—A. Yes, sir; the same security.

Q. You know of no other reason for the refusal than that given in the letter?—A. Certainly not.

Q. And that was that they feared, on account of certain controversies you had with the Standard Oil Company and various railroads in the West, you could not use the cars to advantage if the railroads should be hostile to your interests?—A. Yes, sir; certainly.

Q. If you had put these cars on the roads you would have been entitled to car service, would you not?—A. Yes, sir; I suppose so.

Q. And the income from cars depends mainly on the facility with which they can be used?—A. Yes, sir.

Q. And the income which can be derived from a car is an important element in considering whether a person shall advance money on it or not?—A. I suppose so.

Q. And if, through the hostility of railroads, you could not use your cars to advantage, there would be no income?—A. That is correct.

Q. How many of these cars did you thus seek to obtain?—A. In the first place 20, and finally I made arrangements by which I got 10 cars from the Harrisburg car works.

Q. I am speaking of this firm that sent you this letter; how many cars did you try to get from them?—A. Twenty.

Q. And what proportion of the payment was to be made in cash?—
A. Twenty or twenty-five per cent.

Q. And the deferred payments were to be extended over a series of years?—A. Yes, sir; three to five years.

By Mr. SMITH :

Q. And those cars would not have belonged to you until you had made the last payment?—A. No, sir; certainly not.

By Mr. BUCHANAN :

Q. At the time of the shipment of this car-load of oil that gave rise to all this correspondence, what was the local rate from Marietta to Cincinnati?—A. I think it was 32 cents at that time. I am very sure it was 32 cents just after the interstate commerce act was passed. It had formerly been 30 cents, and afterwards was raised to 36 cents.

By Mr. SMITH :

Q. Per barrel or hundred weight?—A. Per barrel, from Marietta to Cincinnati.

JOHN D. ARCHBOLD—Recalled.

The CHAIRMAN. Mr. Archbold, I call your attention to testimony given by you when you were on the stand before, which I will read.

Q. Now, to go to another subject. I asked Mr. Flagler whether he would send us a list of the names and amounts, and the names of the persons and the amounts issued of trust certificates of the Standard Oil Trust.

The CHAIRMAN. Are you quite sure that was the request? I want to be right about it. My recollection is, you asked only for the names.

Mr. GOWEN. Did I?

The CHAIRMAN. Yes, sir.

Mr. GOWEN. I intended to ask for the amounts. (To the witness). Are you one of the trustees?

The WITNESS. Yes, sir.

Q. Were you from the beginning?—A. Yes, sir.

Q. Will you give us, or get for us, a list of the names, and amounts held by each, of the certificates of trust of the Standard Oil Trust?—A. I will not.

Q. You will not?—No, sir.

Q. Why?—A. Because I will not give it to you.

Q. Why?—A. Because I do not think you have any right to it.

Q. Will you give it to the committee?—A. I shall hear first from the committee as to whether they want it.

Q. And if they do want it?—A. It will be time enough to answer at the time they decide whether they do or not.

In that connection I desire to ask you, can you procure, if you will, a list of the names of the persons to whom the certificates of the Standard Oil Trust, aggregating \$70,000,000, the original capitalization, were issued?—A. I am not sure whether I can or not.

Q. Will you endeavor to procure and give to this committee such a list?—A. Well, I desire to say I have understood that that question had already been passed upon by the committee, and that I had been excused from the effort to procure that list.

Q. It is because that was a misunderstanding that I have recalled you, and I desire to clear away any misunderstanding about it. The committee did not understand that there was any waiving of the inquiry for the list of the names of the persons to whom the original issue of 70,000,000 of the certificates of the Standard Oil Trust was made; and as you are here I desire to know whether you will give us that list?—A. It is useless for me, perhaps, to repeat that I was advised by my counsel in attendance here, and find it confirmed apparently by the

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Yes, sir.

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as were issued?—A. Oh, I

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name any person?—A. No,
for me to state that I make

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SESSION.

Archbold that we have no

that that Mr. Archbold is

further questions to put to

m. Friday, May 4, 1888.

line cars, showing weight,
ack cars, as furnished by the

Weights 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gal.
774	1008	60	3,453	21,754
112	9	60	3,425	21,641
040	10	74	3,692	23,327
242	11	74	3,696	23,332
449	12	76	3,796	23,927
043	13	65	3,252	20,536
049	14	65	3,221	20,362
062	15	64	3,221	20,362
049	16	65	3,246	20,492
937	17	65	3,226	20,376
062	18	74	3,708	23,369
881	19	65	3,221	20,362
037	20	66	3,303	20,869
332	21	64	3,216	20,372
130	22	65	3,227	20,380
204	23	72	3,530	22,334
464	24	65	3,226	20,369
565	25	72	3,577	22,535
942	26	74	3,696	23,332

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.
1027	71	3,574	22,516	3385	121	6,026	37,964	3471	114	5,692	35,860
28	65	3,227	20,580	86	121	6,028	37,964	72	114	5,690	35,847
29	65	3,229	20,406	87	120	6,023	37,945	73	114	5,692	35,860
30	74	3,713	23,392	88	120	6,019	37,920	74	114	5,695	35,879
31	66	3,284	20,989	89	120	6,024	37,951	75	114	5,693	35,866
32	65	3,254	20,500	90	121	6,025	37,958	76	114	5,680	35,812
33	74	3,704	23,335	91	121	6,029	37,983	77	114	5,687	35,828
34	64	3,222	20,299	92	121	6,030	37,989	78	120	6,021	37,932
35	74	3,696	23,285	93	121	6,025	37,958	79	120	6,018	37,913
36	65	3,257	20,519	94	121	6,026	37,964	80	120	6,014	37,888
37	65	3,259	20,532	95	120	6,014	37,888	81	120	6,018	37,913
38	72	3,590	22,617	96	120	6,010	37,863	82	120	6,016	37,901
39	65	3,233	20,368	97	120	6,013	37,882	83	120	6,005	37,832
40	73	3,647	22,976	98	120	6,024	37,951	84	120	6,004	37,825
41	73	3,642	22,945	99	120	6,019	37,920	85	120	6,018	37,901
42	74	3,687	23,228	3400	120	6,018	37,913	86	120	6,018	37,913
43	74	3,685	23,216	1	121	6,026	37,964	87	120	6,010	37,863
44	74	3,698	23,297	2	120	6,020	37,926	88	120	6,007	37,844
45	74	3,690	23,247	3	120	6,025	37,958	89	120	6,021	37,932
46	73	3,607	23,102	4	121	6,029	37,983	90	121	6,026	37,964
47	71	3,548	22,478	5	120	6,025	37,958	91	120	6,009	37,857
48	74	3,687	23,228	6	120	6,017	37,907	92	120	6,008	37,850
49	73	3,664	23,083	7	120	6,013	37,882	93	120	6,009	37,857
1050	72	3,675	23,158	8	120	6,022	37,939	94	120	6,007	37,844
51	73	3,683	23,003	9	121	6,028	37,976	95	120	6,008	37,850
52	74	3,690	23,058	10	121	6,027	37,970	96	120	6,018	37,882
53	73	3,649	22,949	11	120	6,023	37,945	97	120	6,002	37,813
54	80	4,014	25,288	12	121	6,030	37,989	98	120	6,010	37,863
55	80	4,023	25,345	13	121	6,029	37,983	99	120	6,002	37,813
56	73	3,674	23,146	14	121	6,032	38,002	3500	120	6,016	37,901
57	73	3,670	23,121	15	121	6,027	37,970	1	120	6,005	37,832
58	73	3,666	23,096	16	120	6,024	37,951	2	120	6,003	37,819
59	84	4,281	26,970	17	121	6,027	37,970	3	120	6,019	37,920
60	86	4,314	27,178	18	120	6,018	37,913	4	120	6,010	37,863
61	86	4,286	27,002	20	120	6,025	37,964	5	120	6,009	37,857
62	85	4,266	26,876	21	120	6,012	37,876	6	120	6,009	37,857
63	86	4,298	27,077	22	120	6,024	37,951	7	120	6,018	37,913
64	85	4,252	26,788	24	121	6,031	37,995	8	120	6,014	37,888
65	85	4,254	26,800	28	121	6,029	37,983	9	120	6,016	37,901
66	86	4,289	27,021	29	121	6,034	38,014	10	120	6,019	37,920
67	86	4,281	26,970	30	121	6,031	37,995	11	120	6,007	37,781
68	85	4,270	26,901	31	121	6,034	38,014	12	120	6,014	37,888
69	86	4,282	26,977	32	120	6,025	37,968	13	120	6,015	37,895
70	85	4,253	26,794	33	121	6,036	38,027	14	120	6,016	37,901
71	85	4,265	26,870	34	121	6,034	38,014	15	120	6,010	37,863
72	85	4,267	26,882	35	121	6,035	38,021	16	120	6,012	37,876
73	85	4,269	26,895	36	121	6,032	38,002	17	120	6,014	37,888
74	85	4,236	26,687	37	121	6,031	37,995	18	120	6,018	37,913
75	85	4,272	26,914	38	121	6,035	38,021	19	120	6,007	37,844
76	85	4,270	26,901	39	120	6,021	37,932	20	120	6,013	37,882
77	85	4,279	26,958	40	120	6,019	37,920	21	120	6,015	37,895
78	86	4,274	26,926	41	120	6,025	37,958	22	120	6,015	37,895
79	85	4,308	27,140	42	121	6,039	38,046	23	120	6,018	37,913
80	86	4,287	27,008	43	120	6,022	37,939	24	120	6,018	37,913
81	86	4,270	26,901	44	121	6,040	38,052	25	120	6,019	37,920
82	85	4,324	27,241	45	121	6,028	37,976	26	120	6,005	37,832
83	86	4,270	26,901	46	121	6,029	37,983	27	120	6,012	37,876
84	85	4,358	27,455	47	121	6,029	37,983	28	120	6,014	37,888
85	87	4,295	27,059	48	121	6,033	38,008	29	120	6,012	37,876
86	86	4,274	26,926	49	120	6,021	37,932	30	120	6,008	37,850
87	85	4,294	27,052	50	120	6,025	37,968	31	120	6,010	37,863
88	86	4,581	22,560	51	120	6,021	37,932	32	120	6,015	37,895
89	72	3,444	21,647	52	121	6,029	37,983	33	120	6,014	37,888
90	60	3,268	20,588	53	114	5,706	35,948	34	120	6,010	37,863
91	65	3,207	20,204	54	114	5,695	35,879	35	120	6,013	37,882
92	64	3,524	22,201	55	114	5,698	35,897	36	120	6,004	37,825
93	70	3,694	23,872	56	114	5,705	35,942	37	120	6,012	37,876
2356	114	5,691	35,854	57	114	5,702	35,923	38	120	5,994	37,762
59	114	5,698	35,897	58	114	5,702	35,923	39	120	6,005	37,832
60	114	5,690	35,847	59	114	5,706	35,948	40	120	6,023	37,945
61	114	5,698	35,897	60	114	5,695	35,879	41	120	6,015	37,895
62	114	5,698	35,897	61	114	5,694	35,872	42	120	6,012	37,876
63	114	5,692	35,860	62	114	5,699	35,904	43	120	6,010	37,863
64	114	5,695	35,879	63	114	5,706	35,948	44	120	6,007	37,844
65	114	6,034	38,014	64	114	5,686	35,822	45	120	6,015	37,895
78	121	6,029	37,983	65	114	5,694	35,872	46	120	6,010	37,820
79	121	6,029	37,983	66	114	5,697	35,891	47	120	6,014	37,888
80	120	6,019	37,920	67	114	5,690	35,847	48	120	6,009	37,857
81	120	6,023	37,945	68	114	5,693	35,866	49	120	6,021	37,932
82	120	6,029	37,983	69	114	5,701	35,916	50	120	6,012	37,876
83	121	6,030	37,926	70	114	5,693	35,866	51	120	6,010	37,863

Car No.	Barrels 50 gallons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gallons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gallons.	Gallons.	Weights at 6.3 pounds per gallon.
3552	120	6,014	37,888	3632	121	6,037	38,033	3714	120	6,019	37,889
53	120	6,016	37,901	34	121	6,034	38,014	15	120	6,023	37,945
54	120	6,023	37,945	35	121	6,039	38,046	16	120	6,021	37,922
55	120	6,019	37,920	36	121	6,040	38,052	17	120	6,020	37,926
56	120	6,013	37,882	37	121	6,039	38,046	18	120	6,021	37,922
57	120	6,019	37,920	38	121	6,042	38,065	19	120	6,018	37,901
58	120	6,018	37,913	39	121	6,034	38,014	20	120	6,014	37,868
59	120	6,020	37,926	40	121	6,036	38,027	21	120	6,020	37,926
60	120	6,019	37,920	41	121	6,037	38,033	22	120	6,021	37,922
61	120	6,018	37,913	42	121	6,039	38,046	23	120	6,018	37,901
62	120	6,018	37,913	43	121	6,039	38,046	24	120	6,014	37,868
63	120	6,018	37,913	44	121	6,036	38,027	25	120	6,016	37,905
64	120	6,014	37,888	45	121	6,039	38,046	26	120	6,016	37,901
65	120	6,015	37,895	46	121	6,040	38,052	27	120	6,016	37,901
66	120	6,020	37,926	47	121	6,041	38,058	28	120	6,019	37,929
67	120	6,021	37,932	48	121	6,032	38,062	29	120	6,019	37,929
68	120	6,020	37,926	49	121	6,036	38,027	30	120	6,023	37,945
69	120	6,021	37,932	50	121	6,033	38,008	31	120	6,012	37,913
70	120	6,020	37,926	51	121	6,045	38,084	32	120	6,024	37,951
71	120	6,015	37,895	52	121	6,036	38,027	33	120	6,023	37,945
72	120	6,023	37,945	53	121	6,039	38,046	34	120	6,023	37,945
73	120	6,021	37,932	54	121	6,040	38,052	35	120	6,019	37,929
74	120	6,023	37,945	55	121	6,041	38,058	36	120	6,024	37,951
75	120	6,021	37,932	56	121	6,039	38,046	37	121	6,026	37,964
76	120	6,020	37,926	57	121	6,032	38,062	38	120	6,021	37,922
77	120	6,015	37,895	58	121	6,041	38,058	39	120	6,020	37,926
78	121	6,033	38,106	59	121	6,034	38,014	40	120	6,018	37,913
79	121	6,044	38,077	60	121	6,039	38,046	41	120	6,023	37,945
80	121	6,047	38,096	61	121	6,034	38,014	42	120	6,024	37,951
81	121	6,034	38,014	62	121	6,038	38,039	43	121	6,026	37,964
82	121	6,029	37,983	63	121	6,041	38,058	44	120	6,014	37,868
83	121	6,045	38,084	64	121	6,045	38,084	45	121	6,029	37,953
84	121	6,034	38,014	65	121	6,045	38,084	46	121	6,026	37,964
85	121	6,030	37,989	66	121	6,046	38,090	47	121	6,029	37,963
86	121	6,038	38,039	67	121	6,062	38,191	48	120	6,019	37,929
87	121	6,032	38,002	68	121	6,060	38,115	49	120	6,023	37,945
88	120	6,021	37,951	69	121	6,051	38,121	50	121	6,025	37,956
89	121	6,034	38,014	70	121	6,050	38,115	51	120	6,018	37,913
90	121	6,030	37,989	71	121	6,052	38,128	52	120	6,021	37,922
91	121	6,027	37,970	72	121	6,041	38,058	53	120	6,023	37,945
92	121	6,028	37,976	73	121	6,038	38,039	54	121	6,027	37,970
93	121	6,027	37,970	74	121	6,046	38,090	55	120	6,013	37,882
94	120	6,025	37,958	75	121	6,038	38,039	56	121	6,027	37,970
95	121	6,035	38,021	76	121	6,046	38,090	57	121	6,027	37,970
96	121	6,040	38,052	77	121	6,048	38,102	58	120	6,023	37,945
97	121	6,032	38,002	78	121	6,041	38,058	59	121	6,031	37,966
98	121	6,035	38,021	79	121	6,045	38,064	60	120	6,019	37,929
99	121	6,041	38,058	80	121	6,045	38,064	61	120	6,016	37,901
3600	121	6,039	38,046	81	121	6,045	38,064	62	121	6,027	37,970
1	121	6,034	38,014	82	121	6,043	38,071	63	121	6,026	37,964
2	121	6,030	37,989	83	121	6,043	38,071	64	120	6,015	37,868
3	121	6,034	38,014	84	121	6,055	38,147	65	121	6,026	37,964
4	121	6,037	38,033	85	121	6,041	38,058	66	120	6,021	37,922
5	121	6,035	38,021	86	121	6,051	38,121	67	120	6,020	37,926
6	121	6,038	38,039	87	120	5,977	37,655	68	120	6,025	37,958
7	120	6,045	38,084	88	121	6,043	38,071	69	120	6,019	37,929
8	120	6,025	37,958	89	121	6,053	38,134	70	120	6,020	37,926
9	121	6,044	38,014	90	120	5,985	37,706	71	120	6,014	37,868
10	121	6,030	37,989	91	120	5,979	37,668	72	120	6,011	37,889
11	121	6,031	37,995	92	120	5,984	37,699	73	120	6,021	37,922
12	121	6,036	38,027	93	120	5,982	37,687	74	120	6,021	37,922
13	121	6,035	38,021	94	120	5,982	37,687	75	120	6,024	37,951
14	121	6,034	38,014	95	120	5,979	37,648	76	120	6,020	37,926
15	121	6,044	38,077	96	120	5,985	37,706	77	121	6,029	37,963
16	121	6,030	37,989	97	120	5,975	37,643	78	121	6,025	37,956
17	121	6,034	38,014	98	121	6,028	37,964	79	121	6,025	37,956
18	121	6,028	37,964	99	120	6,020	37,926	80	120	6,016	37,901
19	121	6,039	38,046	3700	120	6,018	37,913	81	121	6,035	38,021
20	121	6,031	37,995	1	120	6,018	37,901	82	121	6,029	37,963
21	121	6,030	37,989	2	120	6,025	37,958	83	121	6,027	37,970
22	121	6,032	38,002	3	120	6,023	37,945	84	120	6,013	37,882
23	121	6,041	38,058	4	121	6,029	37,983	85	120	6,020	37,926
24	121	6,040	38,052	5	120	6,015	37,895	86	120	6,021	37,922
25	120	6,025	37,958	6	120	5,979	37,670	87	120	6,018	37,913
26	121	6,026	37,964	7	120	6,019	37,920	88	121	6,029	37,963
27	121	6,044	38,077	8	120	6,023	37,945	89	120	6,021	37,922
28	121	6,045	38,084	9	120	6,019	37,920	90	120	6,019	37,929
29	121	6,041	38,058	10	120	6,021	37,932	91	121	6,027	37,970
30	121	6,040	38,052	11	120	6,024	37,951	92	121	6,031	37,986
31	121	6,039	38,046	12	120	6,023	37,945	93	121	6,024	37,951
32	121	6,041	38,058	13	121	6,030	37,989	94	120	6,021	37,922

Bar No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gall.
92	121	6.040	88,052
93	121	6.034	88,014
94	121	6.028	87,976
95	121	6.045	88,084
96	121	6.035	88,021
97	121	6.034	88,014
98	121	6.030	87,989
99	121	6.031	87,995
00	121	6.052	88,128
1	121	6.043	88,071
2	121	6.044	88,077
3	121	6.040	88,052
4	119	5.933	37,378
5	120	6.023	87,945
6	120	6.021	87,932
7	121	6.031	87,995
8	121	6.032	88,002
9	120	6.020	87,926
10	120	6.021	87,932
11	120	6.010	87,863
12	120	6.016	87,901
13	120	6.019	87,920
14	121	6.029	87,983
15	120	6.007	87,844
16	120	6.023	87,945
17	120	6.013	87,882
18	120	6.024	87,951
19	120	6.021	87,932
20	120	6.021	87,922
21	120	6.015	87,895
22	121	6.031	87,995
23	120	6.018	87,913
24	120	6.016	87,901
25	120	6.019	87,920
26	120	6.016	87,901
27	120	6.019	87,920
28	120	6.018	87,913
29	120	6.002	87,813
30	120	6.013	87,882
31	120	6.010	87,863
32	120	6.020	87,926
33	121	6.026	87,964
34	120	6.020	87,926
35	120	6.013	87,882
36	121	6.025	87,958
37	121	6.026	87,964
38	120	6.009	87,857
39	121	6.026	87,964
40	121	6.027	87,970
41	121	6.035	88,021
42	120	6.016	87,901
43	121	6.029	87,983
44	121	6.026	87,964
45	121	6.040	88,052
46	121	6.034	88,014
47	121	6.034	88,014
48	121	6.035	88,021
49	121	6.036	88,027
50	121	6.036	88,027
51	121	6.040	88,052
52	121	6.035	88,021
53	121	6.032	88,002
54	121	6.037	88,039
55	121	6.042	88,065
56	121	6.032	88,002
57	121	6.034	88,014
58	121	6.035	88,021
59	121	6.034	88,014
60	121	6.041	88,058
61	121	6.040	88,052
62	121	6.031	87,995
63	121	6.039	88,046
64	121	6.042	88,065
65	121	6.035	88,021
66	121	6.040	88,052
67	121	6.037	88,033
68	121	6.030	87,989
69	121	6.034	88,014
70	124	6.187	38,979
71	124	6.195	39,002
72	124	6.192	38,919

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gall.
4073	124	6,195	39,029	4157	121	6,042	38,065	4238	121	6,035	38,021
74	124	6,194	39,022	58	121	6,047	38,066	39	121	6,045	38,064
75	124	6,195	39,022	59	121	6,045	38,064	40	121	6,042	38,065
76	124	6,190	39,054	60	121	6,041	38,058	41	121	6,033	38,066
77	124	6,201	39,066	61	121	6,039	38,046	42	120	6,010	37,983
78	124	6,193	39,016	62	121	6,032	38,002	43	121	6,025	37,956
79	124	6,192	39,010	63	121	6,027	37,970	44	121	6,027	37,974
80	121	6,043	38,071	64	121	6,026	37,964	45	121	6,023	38,002
81	121	6,045	38,064	65	121	6,027	37,970	46	121	6,036	38,037
82	121	6,043	38,071	66	121	6,030	37,989	47	121	6,035	38,021
83	121	6,051	37,995	67	121	6,035	38,021	48	121	6,030	37,989
84	121	6,045	38,064	68	121	6,029	37,983	49	121	6,042	38,065
85	121	6,025	37,958	69	121	6,027	37,970	50	121	6,036	38,037
86	121	6,051	37,995	70	121	6,029	37,988	51	121	6,029	37,953
87	121	6,045	38,064	71	121	6,030	37,999	52	121	6,031	38,006
88	121	6,051	37,995	72	121	6,031	37,935	53	121	6,026	37,984
89	121	6,053	38,008	73	121	6,027	37,970	54	121	6,052	38,002
90	121	6,051	37,995	74	121	6,032	38,002	55	121	6,030	37,989
91	121	6,055	38,021	75	121	6,033	38,008	56	121	6,030	37,989
92	121	6,032	38,002	76	121	6,029	37,983	57	120	6,022	37,939
93	121	6,030	37,989	77	120	6,017	37,907	58	121	6,037	38,033
94	121	6,031	37,995	78	120	6,024	37,951	59	121	6,031	37,985
95	120	6,012	37,876	79	121	6,031	37,995	60	121	6,037	38,033
96	121	6,027	37,970	80	120	6,016	37,901	61	121	6,032	38,002
97	121	6,025	37,958	81	121	6,033	38,008	62	120	6,021	37,932
98	121	6,019	37,920	82	121	6,037	38,033	63	121	6,035	38,021
99	121	6,026	37,964	83	121	6,032	38,002	64	121	6,032	38,002
4100	121	6,027	37,970	84	120	6,021	37,932	65	121	6,039	38,046
1	120	6,020	37,926	85	120	6,020	37,926	66	121	6,036	38,027
2	121	6,025	37,958	86	121	6,027	37,970	67	121	6,034	38,014
3	121	6,030	37,989	87	120	6,022	37,939	68	121	6,035	38,021
4	121	6,026	37,964	88	121	6,042	38,065	69	121	6,032	38,002
5	121	6,027	37,970	89	121	6,033	38,008	70	121	6,033	38,006
6	121	6,032	38,002	90	121	6,045	38,044	71	121	6,026	37,984
7	121	6,032	38,002	91	121	6,049	38,079	72	121	6,031	37,985
8	121	6,030	37,989	92	121	6,041	38,058	73	121	6,039	38,046
9	121	6,036	38,027	93	121	6,027	37,970	74	121	6,037	38,033
10	121	6,032	38,002	94	121	6,036	38,027	75	121	6,038	38,039
11	121	6,031	38,033	95	121	6,038	38,068	76	120	6,023	38,045
12	121	6,036	38,027	96	121	6,040	38,052	77	121	6,036	38,037
13	121	6,029	37,983	97	121	6,041	38,058	78	121	6,027	37,979
14	121	6,033	38,008	98	121	6,042	38,065	79	121	6,039	38,046
15	120	6,020	37,926	99	121	6,034	38,008	80	121	6,032	38,002
16	120	6,019	37,920	4200	121	6,039	38,046	81	121	6,027	37,979
17	121	6,025	37,958	1	120	6,019	37,920	82	121	6,033	38,006
18	120	6,019	37,920	2	121	6,039	38,046	83	121	6,039	38,046
19	121	6,030	37,989	3	121	6,033	38,008	84	121	6,030	37,989
20	121	6,033	38,008	4	121	6,032	38,002	85	121	6,037	38,033
21	120	6,022	37,939	5	121	6,031	37,995	86	121	6,042	38,065
22	121	6,031	37,995	6	121	6,039	38,046	87	121	6,037	38,033
23	121	6,032	38,002	7	121	6,042	38,065	88	121	6,030	37,989
24	121	6,029	37,983	8	121	6,031	37,995	89	121	6,048	38,065
25	121	6,029	37,983	9	121	6,047	38,096	90	121	6,031	37,985
26	121	6,035	38,021	10	121	6,046	38,090	91	121	6,032	38,002
27	121	6,035	38,021	11	121	6,035	38,021	92	121	6,031	37,985
28	121	6,032	38,002	12	121	6,034	38,014	93	121	6,033	38,006
29	121	6,031	37,995	13	121	6,029	37,983	94	121	6,058	38,105
30	121	6,032	38,002	14	121	6,033	38,008	95	121	6,029	37,983
31	121	6,027	37,970	15	121	6,030	37,980	96	121	6,027	37,979
32	121	6,037	38,033	16	120	6,019	37,920	97	121	6,042	38,065
33	121	6,031	37,995	17	120	6,026	37,964	98	120	6,024	37,951
34	121	6,055	38,147	18	120	6,021	37,932	99	121	6,031	37,985
35	121	6,034	38,014	19	120	6,024	37,951	4200	121	6,039	37,989
36	121	6,041	38,058	20	121	6,031	37,995	1	121	6,038	38,006
37	121	6,037	38,033	21	121	6,031	37,995	2	121	6,030	37,989
38	121	6,037	38,033	22	121	6,025	37,958	3	121	6,032	38,002
39	121	6,037	38,033	23	121	6,025	37,958	4	121	6,032	38,002
40	121	6,038	38,039	24	121	6,027	37,970	5	121	6,032	38,002
41	121	6,037	38,033	25	121	6,027	37,970	6	121	6,030	37,989
42	121	6,036	38,027	26	121	6,026	37,964	7	121	6,031	37,985
43	121	6,038	38,039	27	121	6,025	37,958	8	121	6,032	38,002
44	121	6,026	37,964	28	120	6,019	37,920	9	121	6,025	37,956
45	121	6,039	38,046	29	121	6,026	37,964	10	121	6,030	37,989
46	121	6,045	38,084	30	120	6,016	37,901	11	120	6,024	37,951
47	121	6,038	38,039	31	121	6,040	38,052	12	121	6,059	38,173
48	121	6,029	37,983	32	121	6,030	37,989	13	121	6,060	38,178
49	121	6,044	38,077	33	121	6,030	37,989	14	121	6,063	38,197
50	121	6,043	38,071	34	121	6,026	37,964	15	121	6,060	38,178
51	121	6,032	38,002	35	121	6,026	37,964	16	121	6,063	38,197
52	121	6,033	38,008	36	120	6,022	37,939	17	121	6,050	38,115
53	121	6,034	38,014	37	121	6,027	37,970	18	121	6,085	38,421

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.
4319	121	6,039	38,046	4400	121	6,029	38,083	4481	121	6,060	38,178
20	121	6,067	38,222	1	121	6,045	38,084	82	121	6,059	38,172
21	121	6,048	38,102	2	121	6,032	38,002	83	121	6,059	38,172
22	121	6,034	38,014	3	121	6,047	38,086	84	121	6,064	38,203
23	121	6,046	38,090	4	121	6,082	38,002	85	121	6,064	38,208
24	120	6,023	37,945	5	121	6,019	37,920	86	121	6,065	38,210
25	121	6,064	38,203	6	121	6,041	38,058	87	121	6,064	38,203
26	121	6,054	38,140	7	121	6,040	38,052	88	121	6,062	38,191
27	121	6,045	38,084	8	121	6,082	38,002	89	121	6,063	38,197
28	121	6,045	38,084	9	121	6,036	38,027	90	121	6,060	38,178
29	121	6,057	38,159	10	121	6,039	38,046	91	121	6,063	38,197
30	121	6,070	38,241	11	121	6,042	38,065	92	121	6,065	38,210
31	121	6,036	38,021	12	121	6,040	38,052	93	121	6,063	38,197
32	121	6,065	38,210	13	121	6,054	38,140	94	121	6,064	38,203
33	121	6,060	38,178	14	121	6,069	38,172	95	121	6,062	38,191
34	121	6,062	38,191	15	121	6,030	37,989	96	121	6,065	38,210
35	121	6,071	38,247	16	121	6,059	38,172	97	121	6,070	38,241
36	121	6,037	38,033	17	121	6,046	38,090	98	121	6,065	38,210
37	120	6,018	37,913	18	121	6,059	38,172	99	121	6,062	38,191
38	121	6,072	38,254	19	121	6,027	37,970	4500	121	6,063	38,197
39	121	6,032	38,002	20	121	6,036	38,027	1	121	6,062	38,191
40	121	6,038	38,039	21	120	6,024	37,951	2	121	6,067	38,222
41	121	6,088	38,039	22	121	6,030	37,989	3	121	6,059	38,172
42	121	6,088	38,039	23	121	6,047	38,096	4	121	6,060	38,178
43	121	6,038	38,008	24	121	6,043	38,071	5	121	6,069	38,235
44	121	6,042	38,065	25	121	6,065	38,210	6	121	6,068	38,228
45	121	6,034	38,014	26	121	6,059	38,172	7	121	6,068	38,228
46	121	6,064	38,203	27	121	6,058	38,165	8	121	6,068	38,165
47	121	6,029	37,983	28	121	6,059	38,172	9	121	6,068	38,228
48	121	6,045	38,084	29	121	6,060	38,178	10	121	6,064	38,208
49	121	6,039	38,046	30	121	6,058	38,165	11	122	6,078	38,291
50	121	6,061	38,121	31	121	6,059	38,172	12	122	6,075	38,278
51	121	6,042	38,065	32	121	6,060	38,178	13	121	6,070	38,241
52	121	6,041	38,058	33	121	6,062	38,191	14	120	6,010	37,863
53	121	6,037	38,033	34	121	6,059	38,172	15	121	6,069	38,235
54	121	6,033	38,008	35	121	6,062	38,191	16	121	6,070	38,241
55	121	6,043	38,071	36	121	6,060	38,178	17	121	6,069	38,235
56	121	6,045	38,084	37	121	6,059	38,172	18	121	6,067	38,222
57	121	6,046	38,090	38	121	6,055	38,147	19	121	6,064	38,203
58	121	6,033	38,008	39	121	6,059	38,172	20	121	6,063	38,197
59	121	6,038	38,039	40	121	6,064	38,203	21	121	6,063	38,197
60	121	6,035	38,021	41	121	6,063	38,197	22	121	6,067	38,222
61	121	6,034	38,014	42	121	6,060	38,178	23	121	6,068	38,228
62	121	6,067	38,222	43	121	6,064	38,203	24	121	6,071	38,247
63	121	6,042	38,065	44	121	6,065	38,210	25	121	6,065	38,210
64	121	6,055	38,147	45	121	6,060	38,178	26	121	6,063	38,197
65	121	6,045	38,084	46	121	6,065	38,210	27	121	6,067	38,222
66	121	6,047	38,096	47	121	6,060	38,178	28	121	6,062	38,191
67	121	6,028	37,978	48	121	6,059	38,172	29	121	6,058	38,165
68	121	6,039	38,046	49	121	6,067	38,222	30	121	6,068	38,228
69	120	6,022	37,939	50	121	6,064	38,203	82	121	6,059	38,172
70	121	6,036	38,027	51	121	6,059	38,172	33	121	6,056	38,153
71	121	6,047	38,096	52	121	6,067	38,222	34	121	6,056	38,153
72	121	6,040	38,052	53	121	6,064	38,203	35	121	6,067	38,222
73	121	6,041	38,058	54	121	6,068	38,228	86	121	6,064	38,203
74	120	6,023	37,945	55	121	6,068	38,228	37	121	6,072	38,254
75	121	6,031	37,965	56	121	6,063	38,197	38	121	6,067	38,222
76	121	6,037	38,033	57	121	6,065	38,210	39	121	6,057	38,169
77	121	6,038	38,039	58	121	6,058	38,134	40	121	6,064	38,203
78	121	6,032	38,002	59	121	6,059	38,172	41	121	6,073	38,260
79	121	6,022	37,939	60	121	6,064	38,203	42	120	5,981	37,690
80	121	6,039	38,046	61	121	6,062	38,191	43	120	5,988	37,724
81	121	6,026	37,964	62	121	6,060	38,178	44	120	5,933	37,693
82	121	6,043	38,071	63	121	6,065	38,210	45	121	6,074	38,266
83	121	6,037	38,033	64	121	6,060	38,178	46	121	6,073	38,260
84	121	6,049	38,109	65	121	6,064	38,203	47	121	6,067	38,222
85	121	6,039	38,046	66	121	6,063	38,197	48	121	6,070	38,241
86	121	6,037	38,033	67	121	6,062	38,191	49	121	6,070	38,241
87	121	6,023	37,945	68	121	6,069	38,225	50	121	6,069	38,172
88	121	6,037	38,033	69	121	6,059	38,172	51	121	6,052	38,128
89	121	6,039	38,046	70	121	6,059	38,172	52	121	6,053	38,134
90	121	6,026	37,964	71	121	6,062	38,191	53	121	6,059	38,235
91	121	6,036	38,027	72	121	6,068	38,197	60	121	6,060	38,178
92	121	6,040	38,052	73	121	6,060	38,178	61	121	6,063	38,197
93	121	6,039	38,046	74	121	6,063	38,197	62	121	6,060	38,178
94	121	6,037	38,033	75	121	6,062	38,191	63	121	6,064	38,203
95	121	6,042	38,065	76	121	6,060	38,178	64	121	6,060	38,178
96	121	6,056	38,153	77	121	6,063	38,197	65	121	6,063	38,197
97	121	6,082	38,002	78	121	6,062	38,191	67	121	6,051	38,121
98	121	6,039	38,046	79	121	6,063	38,197	87	121	6,059	38,172
99	120	6,021	37,932	80	121	6,065	38,210	88	121	6,067	38,222

Barrels 50 gal- lons.	Gallons.	Weights at 6.2 pounds per gall.
100	5.014	31.688
100	5.020	31.694
100	5.011	31.540
100	5.002	31.513
100	5.022	31.445
100	5.023	31.445
100	5.004	31.325
100	5.011	31.300
100	5.018	31.413
100	5.024	31.451
100	5.021	31.432
100	5.016	31.401
100	5.001	31.366
100	5.024	31.451
100	5.013	31.562
100	5.014	31.568
100	5.017	31.567
100	5.014	31.568
100	5.002	31.513
101	5.020	31.604
100	5.024	31.651
100	5.013	31.645
101	5.028	31.678
100	5.011	31.560
100	5.003	31.519
100	5.013	31.592
100	4.999	31.494
100	5.015	31.605
100	5.014	31.598
100	5.023	31.645
100	5.018	31.613
100	5.014	31.586
100	5.019	31.620
100	5.007	31.544
100	5.015	31.595
100	5.003	31.519
100	5.021	31.632
100	5.021	31.632
100	5.008	31.587
101	5.028	31.684
100	5.006	31.536
100	5.017	31.607
100	5.019	31.629
100	5.002	31.513
100	5.010	31.543
100	5.006	31.536
100	4.997	31.481
100	5.009	31.567
100	5.023	31.665
100	5.011	31.560
100	5.014	31.568
100	5.014	31.568
100	4.996	31.475
100	5.005	31.532
100	5.009	31.607
100	5.003	31.519
100	5.004	31.505
100	5.008	31.556
100	5.010	31.563
100	5.004	31.525
100	5.008	31.564
100	5.012	31.576
100	5.011	31.560
100	4.994	31.462
100	5.006	31.560
100	5.022	31.630
100	5.020	31.626
100	5.010	31.568
100	5.019	31.620
100	5.012	31.576
100	5.012	31.576
100	5.020	31.626
100	5.017	31.607
100	5.017	31.607
100	5.002	31.513
100	5.021	31.632
100	5.013	31.562
100	5.014	31.568
100	5.012	31.576
100	5.004	31.536
100	5.002	31.513

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gall.
4814	100	5.018	31.582	4886	101	5.084	31.714	5001	90	4.488	28.308
15	100	5.017	31.607	87	100	5.019	31.620	2	90	4.501	28.356
16	100	5.001	31.308	98	101	5.038	31.789	3	90	4.497	28.331
17	100	5.011	31.569	99	101	5.029	31.683	4	90	4.481	28.280
18	100	5.028	31.645	4900	101	5.029	31.683	5	90	4.508	28.400
19	100	5.010	31.568	1	101	5.047	31.796	6	90	4.500	28.350
20	101	5.028	31.676	2	101	5.028	31.676	7	90	4.497	28.331
21	100	5.003	31.519	27	91	4.549	28.659	8	90	4.506	28.368
22	100	5.005	31.532	28	91	4.549	28.659	9	90	4.513	28.432
23	100	5.020	31.626	29	91	4.550	28.663	10	90	4.508	28.400
24	101	5.029	31.683	30	92	4.576	28.829	11	90	4.495	28.319
25	100	5.018	31.613	31	91	4.567	28.772	12	90	4.500	28.350
26	100	5.026	31.664	32	91	4.561	28.734	13	89	4.481	28.104
27	101	5.027	31.670	33	91	4.573	28.810	14	90	4.500	28.350
28	100	5.022	31.639	34	91	4.564	28.753	15	90	4.497	28.331
29	101	5.027	31.670	35	91	4.564	28.753	16	90	4.496	28.325
30	101	5.032	31.702	36	91	4.564	28.753	17	90	4.506	28.348
31	101	5.027	31.670	37	91	4.565	28.760	18	90	4.506	28.368
32	100	5.020	31.626	38	91	4.571	28.797	19	90	4.506	28.368
33	100	5.019	31.620	39	91	4.569	28.785	20	90	4.503	28.369
34	100	5.016	31.601	40	91	4.568	28.778	21	90	4.504	28.375
35	100	5.020	31.626	41	91	4.564	28.753	22	90	4.490	28.287
36	100	5.014	31.583	42	91	4.566	28.766	23	89	4.461	28.104
37	100	5.017	31.607	43	91	4.566	28.766	24	90	4.503	28.369
38	100	5.018	31.613	44	91	4.563	28.747	25	90	4.510	28.413
39	100	5.011	31.569	45	91	4.561	28.734	26	90	4.500	28.350
40	101	5.065	31.721	46	91	4.568	28.778	27	90	4.498	28.337
41	100	5.017	31.607	47	91	4.564	28.753	28	90	4.498	28.337
42	100	5.023	31.645	48	91	4.564	28.753	29	90	4.501	28.356
43	100	5.021	31.632	49	91	4.559	28.722	30	90	4.502	28.363
44	101	5.020	31.639	50	91	4.560	28.728	31	90	4.511	28.419
45	101	5.025	31.658	51	91	4.563	28.747	32	90	4.514	28.438
46	101	5.034	31.714	52	91	4.565	28.760	33	90	4.513	28.432
47	100	5.023	31.645	53	91	4.562	28.741	34	90	4.505	28.382
48	101	5.025	31.658	54	91	4.568	28.778	35	90	4.508	28.400
49	100	5.019	31.620	55	91	4.560	28.728	36	90	4.515	28.445
50	100	5.027	31.607	56	91	4.560	28.728	37	90	4.501	28.356
51	101	5.027	31.670	57	91	4.563	28.747	38	90	4.503	28.369
52	101	5.029	31.683	58	91	4.564	28.753	39	90	4.491	28.293
53	100	5.023	31.645	59	91	4.560	28.728	40	90	4.501	28.356
54	100	5.015	31.585	60	91	4.560	28.728	41	90	4.509	28.407
55	100	5.022	31.639	61	91	4.563	28.747	42	90	4.500	28.350
56	100	5.022	31.639	62	91	4.570	28.791	43	90	4.510	28.413
57	100	5.018	31.613	63	91	4.568	28.778	44	90	4.497	28.331
58	100	5.024	31.651	64	91	4.564	28.753	45	90	4.505	28.382
59	100	5.024	31.651	65	91	4.566	28.766	46	90	4.503	28.369
60	100	5.020	31.626	66	91	4.572	28.804	47	90	4.495	28.325
61	100	5.016	31.601	67	91	4.569	28.785	48	90	4.495	28.319
62	100	5.018	31.613	68	91	4.569	28.785	49	90	4.507	28.394
63	101	5.033	31.708	69	91	4.564	28.753	50	90	4.503	28.369
64	101	5.028	31.676	70	91	4.562	28.741	51	90	4.501	28.356
65	101	5.029	31.683	71	91	4.564	28.753	52	90	4.505	28.382
66	101	5.030	31.688	72	91	4.563	28.747	53	90	4.510	28.413
67	101	5.029	31.683	73	91	4.563	28.747	54	90	4.499	28.344
68	100	5.024	31.651	74	91	4.561	28.734	55	90	4.509	28.407
69	101	5.029	31.683	75	91	4.564	28.753	56	90	4.502	28.363
70	100	5.015	31.585	76	91	4.566	28.766	57	90	4.506	28.388
71	100	5.016	31.601	77	91	4.564	28.753	58	90	4.503	28.369
72	100	5.013	31.582	78	91	4.564	28.753	59	90	4.502	28.363
73	100	5.014	31.588	79	91	4.565	28.760	60	90	4.509	28.407
74	100	5.023	31.645	80	91	4.560	28.728	61	90	4.502	28.363
75	100	5.019	31.620	81	91	4.566	28.766	62	90	4.501	28.356
76	100	5.021	31.632	82	91	4.567	28.772	63	90	4.494	28.312
77	100	5.015	31.585	83	91	4.566	28.766	64	90	4.501	28.356
78	100	5.023	31.645	84	91	4.573	28.810	65	90	4.502	28.363
79	101	5.025	31.658	85	92	4.576	28.829	66	90	4.502	28.363
80	100	5.013	31.582	86	91	4.573	28.810	67	90	4.498	28.337
81	100	5.023	31.645	87	91	4.573	28.810	68	90	4.504	28.375
82	101	5.026	31.664	88	92	4.578	28.841	69	90	4.498	28.337
83	100	5.022	31.639	89	91	4.574	28.816	70	90	4.500	28.350
84	100	5.023	31.645	90	91	4.574	28.816	71	90	4.500	28.350
85	101	5.026	31.664	91	91	4.569	28.785	72	91	4.507	28.383
86	100	5.017	31.607	92	91	4.571	28.797	73	90	4.503	28.369
87	100	5.016	31.601	93	92	4.576	28.829	74	90	4.506	28.388
88	100	5.016	31.601	94	91	4.566	28.766	75	90	4.506	28.388
89	100	5.024	31.651	95	91	4.568	28.778	76	90	4.493	28.306
90	100	5.017	31.607	96	91	4.567	28.772	77	90	4.504	28.375
91	101	5.026	31.664	97	90	4.500	28.350	78	90	4.502	28.363
92	100	5.017	31.607	98	90	4.506	28.388	79	90	4.509	28.407
93	100	5.012	31.576	99	90	4.510	28.413	80	90	4.505	28.382
94	100	5.012	31.576	5000	90	4.497	28.381	81	90	4.502	28.363
95	101	5.083	31.708								

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gallon.
5082	90	4,504	28,375	5163	89	4,485	28,130	5245	90	4,513	28,432
83	90	4,498	28,337	84	89	4,480	28,098	46	90	4,511	28,419
84	90	4,504	28,375	65	89	4,482	28,111	47	90	4,507	28,394
85	90	4,500	28,350	66	89	4,480	28,098	48	90	4,515	28,445
86	90	4,506	28,388	67	89	4,484	28,123	49	90	4,512	28,428
87	90	4,504	28,375	68	89	4,482	28,111	50	90	4,513	28,432
88	90	4,494	28,312	69	89	4,453	28,054	51	90	4,500	28,359
89	90	4,500	28,350	70	90	4,488	28,148	52	90	4,500	28,359
90	90	4,505	28,382	71	89	4,481	28,104	53	90	4,506	28,386
91	90	4,500	28,350	72	89	4,461	28,104	54	90	4,505	28,382
92	90	4,500	28,350	73	89	4,459	28,092	55	90	4,508	28,400
93	89	4,485	28,130	74	89	4,484	28,113	56	90	4,510	28,411
94	89	4,485	28,130	75	89	4,458	28,085	58	90	4,506	28,386
95	89	4,472	28,174	76	89	4,467	28,142	59	90	4,512	28,428
96	89	4,465	28,130	77	89	4,463	28,117	60	90	4,505	28,382
97	89	4,470	28,161	78	89	4,454	28,060	61	90	4,498	28,337
98	89	4,467	28,142	79	89	4,462	28,111	62	90	4,511	28,419
99	89	4,472	28,174	80	89	4,461	28,104	63	90	4,513	28,432
5100	90	4,477	28,205	81	89	4,464	28,123	64	90	4,503	28,369
1	89	4,470	28,161	83	89	4,466	28,136	65	90	4,509	28,407
2	89	4,467	28,142	84	89	4,471	28,167	66	90	4,509	28,407
3	90	4,478	28,190	85	89	4,456	28,073	67	90	4,510	28,413
4	89	4,461	28,104	86	89	4,457	28,079	68	90	4,512	28,428
5	89	4,460	28,098	87	90	4,521	28,482	69	90	4,517	28,457
6	89	4,472	28,174	88	89	4,468	28,148	70	90	4,511	28,419
7	89	4,467	28,142	89	89	4,467	28,142	71	90	4,495	28,319
8	89	4,468	28,148	90	90	4,511	28,419	72	90	4,513	28,432
9	89	4,473	28,180	91	90	4,486	28,262	73	90	4,509	28,407
10	89	4,473	28,180	92	90	4,504	28,375	74	90	4,512	28,428
11	89	4,467	28,142	93	90	4,508	28,400	75	90	4,512	28,428
12	89	4,469	28,155	94	90	4,496	28,325	76	90	4,511	28,419
13	89	4,467	28,142	95	90	4,507	28,394	77	90	4,499	28,364
14	90	4,477	28,205	96	90	4,502	28,363	78	90	4,518	28,463
15	89	4,473	28,180	97	90	4,504	28,375	79	90	4,500	28,359
16	89	4,471	28,167	98	90	4,505	28,388	80	90	4,501	28,369
17	89	4,459	28,092	99	90	4,503	28,369	81	90	4,503	28,369
18	89	4,462	28,111	5200	90	4,507	28,394	82	90	4,504	28,375
19	89	4,471	28,167	1	90	4,505	28,382	83	90	4,510	28,413
20	89	4,470	28,161	2	90	4,503	28,369	84	90	4,514	28,438
21	89	4,471	28,167	3	90	4,503	28,369	85	90	4,510	28,413
22	89	4,456	28,073	4	90	4,501	28,356	86	90	4,517	28,457
23	90	4,475	28,193	5	90	4,502	28,363	87	90	4,506	28,386
24	89	4,469	28,155	6	90	4,501	28,356	88	90	4,490	28,325
25	89	4,471	28,167	7	90	4,510	28,413	89	90	4,511	28,419
26	89	4,400	28,098	8	90	4,514	28,438	90	90	4,517	28,457
27	89	4,470	28,161	9	90	4,502	28,363	91	90	4,506	28,386
28	89	4,466	28,136	10	90	4,503	28,369	92	90	4,511	28,419
29	89	4,466	28,136	11	90	4,510	28,413	93	90	4,513	28,432
30	89	4,466	28,136	12	90	4,494	28,312	94	90	4,508	28,394
31	89	4,468	28,148	13	90	4,508	28,400	95	90	4,509	28,407
32	89	4,456	28,073	14	90	4,521	28,482	96	90	4,509	28,407
33	89	4,463	28,117	15	90	4,513	28,432	97	90	4,500	28,359
34	89	4,469	28,155	16	90	4,510	28,413	98	90	4,507	28,394
35	89	4,467	28,142	17	90	4,501	28,356	99	90	4,495	28,319
36	89	4,460	28,098	18	90	4,511	28,419	5300	90	4,514	28,438
37	89	4,465	28,130	19	90	4,517	28,457	1	90	4,509	28,407
38	89	4,461	28,104	20	90	4,506	28,388	2	90	4,505	28,382
39	89	4,464	28,123	21	90	4,507	28,394	3	90	4,509	28,407
40	89	4,464	28,123	22	90	4,513	28,432	4	90	4,506	28,386
41	89	4,469	28,155	23	90	4,512	28,426	5	90	4,503	28,369
42	89	4,471	28,167	24	90	4,513	28,432	6	90	4,510	28,413
43	89	4,459	28,092	25	90	4,503	28,369	7	90	4,502	28,369
44	89	4,458	28,085	26	90	4,514	28,438	8	90	4,507	28,394
45	89	4,441	28,978	27	90	4,506	28,388	9	90	4,511	28,419
46	89	4,462	28,111	28	90	4,503	28,369	10	90	4,509	28,407
47	89	4,474	28,180	29	90	4,518	28,463	11	90	4,510	28,413
48	89	4,468	28,148	30	90	4,509	28,407	12	90	4,509	28,407
49	89	4,464	28,123	31	90	4,507	28,394	13	90	4,513	28,432
50	89	4,463	28,117	32	90	4,502	28,363	14	90	4,504	28,375
51	89	4,463	28,117	33	90	4,513	28,432	15	90	4,503	28,369
52	89	4,461	28,104	34	90	4,513	28,432	16	90	4,514	28,438
53	89	4,465	28,130	35	90	4,517	28,457	17	90	4,512	28,428
54	89	4,466	28,136	36	90	4,509	28,407	18	90	4,507	28,394
55	89	4,461	28,104	37	90	4,511	28,419	19	90	4,508	28,394
56	89	4,470	28,161	38	90	4,515	28,445	20	90	4,503	28,369
57	90	4,476	28,199	39	90	4,496	28,325	21	90	4,510	28,413
58	89	4,464	28,123	40	90	4,503	28,369	22	90	4,513	28,432
59	89	4,460	28,098	41	90	4,521	28,482	23	90	4,507	28,394
60	89	4,472	28,174	42	90	4,508	28,400	24	90	4,508	28,394
61	89	4,453	28,064	43	90	4,506	28,388	25	90	4,512	28,428
62	89	4,464	28,123	44	90	4,512	28,426	26	90	4,510	28,413

Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gall.
90	4,509	28,407
90	4,510	28,413
90	4,503	28,369
90	4,508	28,400
90	4,504	28,375
90	4,508	28,400
90	4,510	28,413
90	4,510	28,413
90	4,513	28,432
90	4,505	28,382
90	4,513	28,432
90	4,512	28,426
90	4,511	28,419
90	4,508	28,400
90	4,511	28,419
91	4,557	28,772
90	4,502	28,363
90	4,498	28,357
90	4,494	28,312
90	4,478	28,211
90	4,479	28,218
90	4,490	28,224
90	4,475	28,193
90	4,476	28,199
90	4,479	28,218
90	4,476	28,199
89	4,472	28,174
89	4,474	28,186
90	4,477	28,205
90	4,476	28,199
90	4,476	28,199
90	4,476	28,199
90	4,476	28,199
90	4,476	28,199
89	4,472	28,174
89	4,464	28,123
89	4,471	28,167
89	4,476	28,199
89	4,469	28,155
89	4,463	28,117
89	4,466	28,136
89	4,472	28,174
90	4,475	28,193
89	4,467	28,142
89	4,467	28,142
89	4,468	28,148
89	4,470	28,161
89	4,471	28,167
90	4,475	28,193
89	4,471	28,167
90	4,476	28,199
89	4,474	28,186
89	4,471	28,167
89	4,472	28,174
89	4,473	28,180
90	4,475	28,193
89	4,471	28,167
89	4,472	28,174
89	4,468	28,148
90	4,480	28,224
89	4,471	28,167
89	4,472	28,174
90	4,473	28,180
89	4,477	28,205
89	4,470	28,161
90	4,480	28,224
89	4,469	28,155
89	4,474	28,186
89	4,471	28,167
89	4,471	28,167
90	4,469	28,155
89	4,475	28,193
89	4,465	28,130
89	4,466	28,136
90	4,476	28,199
89	4,466	28,136
90	4,481	28,230
89	4,466	28,136
89	4,463	28,117
89	4,466	28,136
80	4,469	28,155

Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gall.
5571	80	4,470	28,161	5655	90	4,523	28,486	5738	90	4,508	28,400
72	80	4,464	28,123	57	91	4,536	28,577	58	90	4,505	28,392
73	80	4,465	28,130	58	90	4,502	28,363	40	90	4,507	28,394
74	80	4,466	28,136	59	91	4,531	28,545	41	90	4,509	28,407
75	80	4,472	28,174	60	91	4,529	28,563	42	90	4,509	28,407
76	80	4,468	28,148	61	90	4,512	28,426	43	90	4,504	28,375
77	80	4,466	28,136	62	90	4,502	28,363	44	90	4,506	28,388
78	90	4,477	28,205	63	90	4,478	28,211	45	90	4,510	28,413
79	80	4,469	28,155	64	90	4,499	28,344	46	90	4,510	28,413
80	80	4,469	28,155	65	90	4,503	28,363	47	90	4,502	28,363
81	80	4,468	28,148	66	91	4,528	28,526	48	90	4,501	28,356
82	90	4,478	28,211	67	90	4,502	28,363	49	90	4,509	28,407
83	80	4,474	28,186	68	90	4,505	28,382	50	90	4,506	28,386
84	90	4,478	28,211	69	90	4,505	28,382	51	90	4,512	28,416
85	80	4,472	28,174	70	91	4,532	28,562	52	90	4,510	28,413
86	80	4,471	28,167	71	90	4,518	28,463	53	90	4,508	28,400
87	80	4,444	27,997	72	90	4,516	28,451	54	90	4,511	28,419
88	80	4,469	28,155	73	90	4,501	28,356	55	90	4,512	28,426
89	80	4,462	28,111	74	90	4,519	28,470	56	90	4,496	28,392
90	80	4,466	28,136	75	90	4,500	28,350	57	90	4,485	28,356
91	80	4,469	28,155	76	90	4,514	28,438	58	90	4,499	28,344
92	80	4,469	28,155	77	90	4,506	28,368	59	90	4,501	28,356
93	80	4,472	28,174	79	90	4,510	28,413	60	90	4,489	28,381
94	80	4,472	28,174	80	90	4,518	28,463	61	90	4,492	28,386
95	80	4,471	28,167	81	90	4,495	28,319	62	90	4,482	28,377
96	90	4,475	28,193	82	90	4,514	28,438	63	90	4,490	28,381
97	80	4,473	28,180	83	90	4,506	28,348	64	90	4,505	28,382
98	80	4,462	28,111	84	90	4,506	28,368	65	90	4,509	28,407
99	90	4,477	28,205	85	90	4,506	28,368	66	90	4,485	28,356
5000	90	4,475	28,193	86	90	4,505	28,382	67	90	4,508	28,388
1	90	4,477	28,205	87	90	4,521	28,462	68	80	4,467	28,112
2	80	4,471	28,167	88	90	4,502	28,363	69	90	4,510	28,413
3	80	4,474	28,196	89	90	4,494	28,312	70	90	4,501	28,356
4	90	4,475	28,193	90	90	4,508	28,400	71	90	4,482	28,377
5	80	4,473	28,180	91	90	4,500	28,350	72	90	4,490	28,344
6	90	4,481	28,230	92	90	4,510	28,413	73	80	4,467	28,112
7	90	4,476	28,199	93	90	4,513	28,432	74	90	4,508	28,400
8	90	4,471	28,167	94	90	4,506	28,348	75	90	4,475	28,193
9	90	4,498	28,274	95	90	4,500	28,350	76	90	4,493	28,319
10	80	4,471	28,167	96	90	4,497	28,331	77	90	4,492	28,386
11	80	4,471	28,167	97	90	4,496	28,325	78	90	4,484	28,379
12	80	4,469	28,155	98	90	4,513	28,432	79	90	4,513	28,433
13	90	4,478	28,211	99	90	4,521	28,462	80	80	4,461	28,104
14	90	4,476	28,199	5700	90	4,518	28,463	81	80	4,472	28,174
15	80	4,468	28,148	1	91	4,531	28,545	82	90	4,482	28,408
16	80	4,466	28,136	2	90	4,500	28,350	83	90	4,469	28,116
17	80	4,480	28,224	3	90	4,501	28,356	84	80	4,460	28,084
18	90	4,472	28,174	4	90	4,501	28,356	85	80	4,471	28,167
19	90	4,475	28,193	5	90	4,497	28,331	86	80	4,435	28,087
20	90	4,469	28,155	6	90	4,520	28,476	87	80	4,472	28,180
21	90	4,477	28,205	7	90	4,497	28,381	88	90	4,505	28,382
22	90	4,473	28,180	8	90	4,499	28,344	89	90	4,498	28,337
23	90	4,477	28,205	9	90	4,506	28,368	90	90	4,487	28,366
24	90	4,472	28,174	10	90	4,504	28,375	92	90	4,510	28,413
25	90	4,476	28,189	11	90	4,503	28,369	93	90	4,508	28,400
26	90	4,478	28,211	12	90	4,508	28,400	94	90	4,488	28,374
27	90	4,477	28,205	13	90	4,498	28,377	95	90	4,488	28,382
28	90	4,476	28,199	14	90	4,498	28,377	96	90	4,481	28,379
29	90	4,470	28,161	15	90	4,499	28,344	97	90	4,489	28,381
30	90	4,476	28,190	16	90	4,521	28,462	98	90	4,485	28,356
31	80	4,473	28,180	17	90	4,505	28,382	99	90	4,486	28,382
32	80	4,471	28,167	18	90	4,519	28,470	5000	90	4,489	28,401
33	80	4,472	28,174	19	90	4,510	28,413	1	90	4,486	28,372
34	80	4,469	28,155	20	90	4,518	28,463	2	90	4,488	28,374
35	90	4,480	28,224	21	90	4,508	28,400	3	90	4,481	28,374
36	90	4,476	28,199	22	90	4,504	28,375	4	90	4,488	28,389
37	80	4,461	28,123	23	90	4,495	28,319	6	90	4,490	28,387
38	90	4,522	28,480	24	90	4,510	28,413	7	90	4,486	28,382
39	90	4,516	28,421	25	90	4,503	28,369	8	90	4,484	28,373
40	90	4,530	28,530	26	90	4,506	28,388	9	90	4,484	28,379
41	90	4,524	28,501	27	90	4,504	28,375	10	90	4,484	28,389
42	90	4,522	28,499	28	90	4,513	28,432	11	90	4,477	28,386
43	90	4,538	28,589	29	90	4,505	28,382	12	80	4,474	28,186
44	90	4,521	28,482	30	90	4,505	28,382	13	80	4,468	28,168
45	90	4,519	28,470	31	90	4,507	28,394	14	80	4,464	28,153
46	90	4,527	28,520	32	90	4,506	28,388	15	80	4,460	28,096
47	90	4,527	28,520	33	90	4,504	28,375	16	80	4,467	28,162
48	90	4,535	28,571	34	90	4,507	28,394	17	80	4,468	28,168
49	90	4,526	28,514	35	90	4,511	28,419	18	80	4,464	28,153
50	90	4,539	28,566	36	90	4,511	28,419	19	80	4,461	28,104
51	90	4,538	28,560	37	90	4,506	28,382	20	80	4,466	28,136

Barrels 50 gal- lons.	Gallons.	Weights at 6.3 pounds per gall.
80	3,988	25,187
80	3,985	25,169
80	3,986	25,162
80	3,983	25,156
80	3,988	25,124
80	3,989	25,131
80	3,985	25,169
80	3,979	25,068
80	3,980	25,074
80	3,982	25,180
80	3,985	25,169
80	3,988	25,187
80	3,985	25,169
80	3,984	25,163
80	3,986	25,112
80	4,008	25,250
80	3,997	25,181
80	3,987	25,181
80	3,983	25,093
80	3,999	25,194
80	3,999	25,194
80	3,989	25,131
80	3,989	25,131
80	4,000	25,200
80	3,992	25,150
80	3,985	25,169
80	4,000	25,200
80	3,987	25,118
80	3,985	25,169
80	3,990	25,137
80	4,001	25,206
80	3,986	25,175
80	3,985	25,169
80	3,987	25,118
80	4,001	25,206
79	3,984	24,973
79	3,984	24,973
79	3,985	24,980
80	4,012	25,276
79	3,981	24,891
79	3,982	24,961
79	3,983	24,904
79	3,980	24,948
80	3,976	25,049
80	3,984	25,162
80	3,989	25,131
79	3,980	24,885
79	3,982	24,961
79	3,989	24,942
79	3,980	24,885
79	3,986	24,966
79	3,987	24,929
75	3,773	23,770
79	3,947	24,868
79	3,980	24,885
80	4,002	25,218
80	3,989	25,194
79	3,971	25,017
80	3,988	25,187
80	3,986	25,175
80	4,006	25,238
79	3,948	24,872
80	4,002	25,213
80	3,986	25,175
80	3,988	25,187
80	3,985	25,169
79	3,938	24,797
80	3,982	25,150
80	4,001	25,206
80	3,985	25,169
79	3,986	24,923
78	3,894	24,532
77	3,865	24,350
79	3,984	24,973
79	3,970	25,011
80	3,986	25,175
77	3,836	24,167
77	3,837	24,173
77	3,833	24,148
78	3,885	24,476
78	3,895	24,539

ST.

Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.2 pounds per gall.
6367	77	3,831	24,135
68	76	3,802	23,953
69	76	3,795	23,938
70	76	3,790	23,877
71	76	3,819	24,086
72	77	3,837	24,173
73	77	3,832	24,142
74	76	3,794	23,982
75	76	3,803	23,959
76	76	3,816	24,063
77	77	3,853	24,274
78	77	3,830	24,139
79	76	3,828	24,065
80	77	3,827	24,114
81	77	3,829	24,123
82	76	3,830	24,066
83	76	3,804	23,980
84	76	3,795	23,989
85	76	3,816	24,053
86	77	3,857	24,280
87	77	3,830	24,139
88	76	3,820	24,066
89	77	3,856	24,282
90	77	3,866	24,356
91	77	3,829	24,123
92	76	3,798	23,971
93	76	3,804	23,985
94	76	3,822	24,079
95	77	3,833	24,148
96	76	3,796	23,927
97	77	3,855	24,257
98	76	3,821	24,072
99	76	3,813	24,023
6300	76	3,796	23,937
1	76	3,812	24,016
2	76	3,814	24,023
3	76	3,803	23,956
4	76	3,795	23,939
5	76	3,790	23,877
6	76	3,822	24,079
7	76	3,794	23,962
8	76	3,783	23,923
9	76	3,820	24,080
10	77	3,826	24,123
11	77	3,829	24,135
12	76	3,816	24,053
13	77	3,828	24,116
14	76	3,824	24,081
15	76	3,790	23,877
16	76	3,794	23,962
17	77	3,833	24,148
18	76	3,784	23,920
19	76	3,817	24,047
20	77	3,841	24,196
21	76	3,816	24,041
22	76	3,823	24,065
23	76	3,819	24,068
24	77	3,882	24,473
25	76	3,784	23,923
26	76	3,796	23,927
27	77	3,833	24,166
28	76	3,794	23,980
29	76	3,786	23,923
30	77	3,832	24,153
31	76	3,815	24,085
32	77	3,837	24,173
33	76	3,820	24,086
34	76	3,820	24,086
35	76	3,784	23,920
36	77	3,843	24,148
37	76	3,811	24,066
38	76	3,790	23,877
39	77	3,861	24,324
40	76	3,834	24,091
41	77	3,826	24,104
42	76	3,812	24,076
43	77	3,835	24,161
44	76	3,802	23,953
45	77	3,835	24,161
46	76	3,788	23,904
47	76	3,819	24,086

	Barrels 50 gal- lons.	Gallons	Weights at 8.3 pounds per gall.
73	8,656		23,083
73	8,641		22,998
73	8,662		23,071
73	8,617		22,787
73	8,663		23,077
78	8,674		23,146
73	8,628		22,856
72	8,624		22,831
74	8,698		23,266
74	8,708		23,360
74	8,714		23,368
73	8,668		23,108
74	8,675		23,153
73	8,678		23,140
74	8,683		23,203
73	8,659		23,052
74	8,684		23,209
74	8,677		23,165
74	8,680		23,184
74	8,683		23,203
74	8,688		23,224
73	8,670		23,121
74	8,700		23,310
74	8,705		23,342
74	8,714		23,398
74	8,699		23,304
74	8,713		23,392
74	8,698		23,297
74	8,703		23,329
74	8,701		23,316
73	8,671		23,127
75	8,740		23,562
74	8,701		23,316
74	8,704		23,335
74	8,722		23,449
74	8,675		23,153
73	8,669		23,115
73	8,672		23,134
73	8,672		23,134
74	8,677		23,165
73	8,674		23,146
73	8,669		23,115
73	8,669		23,115
74	8,681		23,209
73	8,671		23,127
74	8,675		23,153
74	8,682		23,197
74	8,682		23,197
74	8,680		23,184
74	8,680		23,184
74	8,693		23,266
78	8,672		23,134
74	8,678		23,171
74	8,688		23,234
73	8,667		23,102
78	8,669		23,115
74	8,679		23,178
71	8,589		22,485
74	8,676		23,159
73	8,674		23,146
73	8,671		23,127
73	8,670		23,121
73	8,675		23,153
74	8,677		23,165
74	8,676		23,159
74	8,681		23,190
73	8,663		23,077
73	8,656		23,083
73	8,666		23,096
74	8,678		23,171
74	8,678		23,171
74	8,683		23,203
74	8,680		23,241
74	8,679		23,178
73	8,671		23,127
74	8,680		23,184
74	8,689		23,241
74	8,679		23,178
73	8,668		23,108
74	8,683		23,205
74	8,696		23,222

ST.

[REDACTED]

Car No.	Barrels 50 gal- lons.	Gallons.	Weights at 63 pounds per gall.
6786	72	2,597	22,061
	77	2,625	24,068
	78	2,585	22,526
	82	2,501	22,023
	90	2,593	22,626
	91	2,588	22,664
	92	2,594	22,642
	93	2,593	22,636
	94	2,587	22,584
	95	2,588	22,624
	96	2,565	22,490
	97	2,594	22,641
	98	2,590	22,617
	99	2,594	22,642
6800	71	2,572	22,504
	72	2,578	22,541
	73	2,581	22,561
	74	2,588	22,604
	75	2,592	22,629
	76	2,588	22,606
	77	2,556	22,453
	78	2,601	22,626
	79	2,678	23,171
	80	2,663	23,077
	81	2,668	23,108
	82	2,672	23,134
	83	2,675	23,153
	84	2,664	23,093
	85	2,670	23,121
	86	2,660	23,068
	87	2,670	23,121
	88	2,667	23,102
	89	2,667	23,102
	90	2,626	22,844
	91	2,671	23,127
	92	2,709	23,367
	93	2,654	23,030
	94	2,673	23,146
	95	2,550	22,813
	96	2,585	22,939
	97	2,547	22,846
	98	2,598	23,067
	99	2,540	22,903
	100	2,573	22,918
	101	2,576	22,939
	102	2,561	22,921
	103	2,573	22,950
	104	2,577	22,959
	105	2,565	22,923
	106	2,575	22,950
	107	2,565	22,923
	108	2,539	22,806
	109	2,558	22,915
	110	2,566	22,943
	111	2,544	22,872
	112	2,567	22,923
	113	2,547	22,867
	114	2,559	22,923
	115	2,538	22,859
	116	2,557	22,906
	117	2,574	22,956
	118	2,557	22,906
	119	2,552	22,873
	120	2,563	22,917
	121	2,545	22,862
	122	2,530	22,782
	123	2,544	22,872
	124	2,552	22,918
	125	2,565	22,960
	126	2,566	22,966
	127	2,567	22,972
	128	2,556	22,923
	129	2,566	22,972
	130	2,563	22,953
	131	2,561	22,944
	132	2,549	22,918
	133	2,556	22,937
	134	2,564	22,952

Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gallon.	Car No.	Barrels 50 gal-lons.	Gallons.	Weights at 6.3 pounds per gall.
6867	71	3,562	22,441	51	6989	4,442	27,985	7030	80	4,443	27,991
68	72	3,581	22,560	52	89	4,453	28,064	81	89	4,454	28,060
69	71	3,583	22,460	53	89	4,448	28,010	82	89	4,453	28,054
70	71	3,581	22,434	54	89	4,447	28,016	83	89	4,442	27,985
71	71	3,537	22,409	55	89	4,450	28,015	84	89	4,446	28,010
72	71	3,558	22,415	56	89	4,442	27,985	85	90	4,478	28,211
73	71	3,563	22,447	57	89	4,444	27,997	86	89	4,444	27,997
74	72	3,600	22,680	58	89	4,443	27,991	87	81	4,061	25,584
80	59	2,960	18,648	59	89	4,445	28,004	88	79	8,938	24,809
81	59	2,958	18,635	60	89	4,447	28,016	89	81	4,061	25,584
82	57	2,899	17,886	61	89	4,441	27,978	90	80	3,979	25,068
83	89	4,454	27,972	62	89	4,437	28,016	41	07	4,838	30,479
84	89	4,454	28,060	63	89	4,455	28,067	42	79	3,925	24,728
85	89	4,437	27,853	64	89	4,443	27,991	43	97	4,818	30,542
86	89	4,441	27,978	65	89	4,450	28,035	44	81	4,060	25,578
87	89	4,448	28,022	66	89	4,449	28,029	45	80	3,980	25,074
88	89	4,454	28,060	67	89	4,450	28,035	46	79	3,970	25,011
89	89	4,445	28,004	68	89	4,448	28,022	47	80	3,978	25,061
90	89	4,443	27,991	69	89	4,448	28,022	48	81	4,068	25,628
91	89	4,437	27,853	70	89	4,447	28,016	49	79	3,954	24,910
92	89	4,449	28,029	71	89	4,442	27,985	50	79	3,953	24,904
93	89	4,447	28,010	72	89	4,448	28,022	51	81	4,033	25,534
94	89	4,444	27,997	73	89	4,443	27,991	52	81	4,039	25,572
95	89	4,446	28,020	74	89	4,474	28,186	53	81	4,067	25,622
96	89	4,450	28,035	75	89	4,442	27,985	54	79	3,971	26,017
97	89	4,450	28,035	76	89	4,443	27,985	55	81	4,062	25,591
98	89	4,447	28,016	77	89	4,449	28,029	56	97	4,811	30,498
99	89	4,443	27,991	78	89	4,447	28,016	57	90	4,509	28,407
6900	80	4,453	28,054	79	89	4,447	28,016	58	81	4,060	25,578
1	89	4,447	28,016	80	89	4,449	28,029	59	79	3,980	24,948
2	89	4,441	27,978	81	89	4,451	28,041	60	79	3,960	24,948
3	89	4,446	28,010	82	89	4,440	28,009	61	79	3,951	24,891
4	89	4,447	28,016	83	89	4,449	28,029	62	79	3,959	24,942
5	89	4,442	27,985	84	89	4,449	28,009	63	79	3,958	24,923
6	89	4,450	28,035	85	89	4,445	28,004	64	103	5,161	32,514
7	89	4,451	28,041	86	89	4,451	28,041	65	80	3,975	25,043
8	89	4,442	27,985	87	89	4,453	28,048	66	79	3,948	24,872
9	89	4,445	28,004	88	89	4,445	28,004	67	81	4,066	25,616
10	89	4,440	27,972	89	89	4,449	28,029	68	81	4,211	26,620
11	89	4,453	28,067	90	89	4,440	27,972	69	90	4,489	28,381
12	89	4,460	28,098	91	89	4,451	28,041	70	88	4,379	27,588
13	89	4,442	27,985	92	90	4,494	28,312	71	87	4,376	27,563
14	89	4,447	28,016	93	89	4,458	28,085	7159	71	3,565	22,397
15	89	4,450	28,035	94	89	4,453	28,054	60	71	3,542	22,315
16	89	4,446	28,010	95	89	4,449	28,029	61	71	3,551	22,371
17	89	4,451	28,041	96	89	4,449	28,029	62	71	3,570	22,491
18	89	4,453	28,054	97	89	4,453	28,054	63	71	3,546	22,340
19	89	4,444	27,997	98	89	4,447	28,016	64	71	3,540	22,302
20	81	4,450	28,035	99	89	4,447	28,016	65	71	3,545	22,334
21	90	4,477	28,205	7000	89	4,450	28,035	66	71	3,574	22,516
22	89	4,448	28,023	1	89	4,451	28,041	67	72	3,579	22,648
23	89	4,452	28,048	2	89	4,457	28,079	68	72	3,577	22,535
24	89	4,458	28,085	3	89	4,448	28,022	69	73	3,579	22,648
25	89	4,446	28,010	4	89	4,443	27,991	70	71	3,546	22,340
26	89	4,456	28,073	5	89	4,460	28,098	71	72	3,582	22,567
27	89	4,449	28,029	6	89	4,442	27,985	72	74	3,718	23,423
28	89	4,446	28,010	7	89	4,445	28,004	73	71	3,560	22,428
29	89	4,560	28,035	8	89	4,445	28,004	74	72	3,577	22,535
30	87	4,446	28,010	9	89	4,445	28,004	75	74	3,705	23,342
31	80	4,446	28,010	10	89	4,451	28,011	76	72	3,600	22,680
32	89	4,450	28,035	11	89	4,445	28,004	77	71	3,561	22,434
33	89	4,449	28,029	12	89	4,446	28,010	78	72	3,582	22,567
34	89	4,447	28,016	13	89	4,455	28,067	79	71	3,554	22,390
35	89	4,443	27,991	14	89	4,455	28,067	80	72	3,580	22,617
36	89	4,446	28,010	15	89	4,454	28,060	81	71	3,568	22,478
37	89	4,446	28,010	16	89	4,452	28,048	82	71	3,545	22,334
38	89	4,442	27,985	17	89	4,446	28,010	83	71	3,567	22,409
39	89	4,443	27,991	18	90	4,475	28,193	84	71	3,561	22,434
40	89	4,441	27,978	19	90	4,473	28,174	85	71	3,560	22,428
41	89	4,445	28,004	20	89	4,447	28,016	86	71	3,537	22,283
42	89	4,471	28,107	21	90	4,493	28,306	87	71	3,557	22,409
43	89	4,458	27,980	22	89	4,442	27,985	89	72	3,577	22,556
44	89	4,456	27,947	23	90	4,485	28,250	90	74	3,703	23,329
45	89	4,458	27,959	24	89	4,454	28,060	91	71	3,547	22,346
46	89	4,455	28,067	25	89	4,452	28,048	92	71	3,570	22,491
47	89	4,448	27,991	26	89	4,459	28,092	93	72	3,601	22,686
48	89	4,451	28,041	27	89	4,448	28,022	94	71	3,570	22,491
49	89	4,444	27,997	28	89	4,450	28,035				
50	89	4,453	28,054	29	89	4,458	28,148				

FRIDAY, *May 4*, 1888.

Committee met at 11 o'clock a. m. Present: The chairman, Mr. McKinney; Mr. Bunnell, Mr. Crouse, Mr. Buchanan, Mr. Grimes, and Mr. Smith.

GEORGE RICE—Recalled.

By Mr. GOWEN:

Q. With reference to the letter written by Chess, Carley & Co. to Mr. Culp, that was offered in evidence the other day, I want to call your attention to the name of the firm of Wilkerson & Co., who were mentioned there as the consignees of the oil that went to Nashville; who were they?—A. My agents.

Q. State whether that shipment of oil was your oil.—A. Yes, sir.

Q. Was the rate at which it was shipped the regular rate?—A. Yes, sir.

Q. It was not lower than the regular rate, was it?—A. It was the regular rate.

Q. Have you the tariff sheets of the Missouri Pacific that were issued last April?—A. Yes, sir; the 1st of April.

Q. Turn to the tariff sheets that went into effect the 1st of April last year, and what is the number of that tariff sheet?—A. No. 47.

Q. When did it take effect?—A. April 1, 1887.

Q. Of the Missouri Pacific?—A. Yes, sir.

Q. Have you also got the tariff sheet that went into effect the same time on petroleum?—A. Yes, sir; No. 31, same date.

Q. No. 47 is the rate on cotton-seed oil?—A. Yes, sir; the official tariff—cotton-seed, cotton-seed oil, meal, and cake.

Q. Now the rates on cotton-seed oil on that official tariff are rates coming northward from various points to Saint Louis?—A. Yes, sir.

Q. Now the rates on petroleum on the other tariff are rates going south to the same points from Saint Louis?—A. Yes, sir.

Q. Have you made a statement or comparison which will place the petroleum rates between the same points southward opposite and in connection with the rates northward between the same points on cotton-seed oil?—A. I have made a statement and inadvertently left it in my room before I came up here; but I have a statement of it here, marked on these tariff sheets, which shows the same statement which I made out. I will have it here in a few minutes. I sent for it.

Q. Pick out some of those and give us the relative difference per 100 pounds.—A. The rates as shown by these tariff sheets which I hold in my hand are rates on coal oil from Saint Louis to Moark and Williams.

Q. How much to Moark?—A. Thirty-six cents a hundred on coal oil and 11 cents a hundred on cotton-seed oil. To Williams it is the same. To Corning it is 37 cents on coal oil and 11 cents on cotton-seed oil.

Q. Now, you will have here a statement such as that statement, separate and distinct from other matter?—A. Yes, sir. It is all made out. I accidentally forgot to bring it up with me. Here it is, just brought in.

List of rates in freight tariffs Nos. 47 and 31, Missouri Pacific Railway Company, Saint Louis, Iron Mountain and Southern Division, taking effect April 1, 1887.

Stations.	Rates per 100 pounds.		Stations.	Rates per 100 pounds.	
	Coal oil.*	Cotton-seed oil.†		Coal oil.*	Cotton-seed oil.†
Moark, Ark.	36	11	Alexander	48	18½
Williams	36	11	Weirman's	49	18½
Corning	37	11	Bryant	49	18½
Bowman	37	11	Handford	49	18½
Black River	38	11	Sidell	49	18½
Knobel	38	11	Newcomb	49	18½
Peach Orchard	39	11	Benton	50	18½
Delaplaine	40	11	Saline	50	18½
O'Kean	41	11	Gravel Switch No 8.	50	18½
Marta	42	11	Cooper's	51	18½
Walnut Ridge	42	11	Woodall	51	18½
Hoxie	42	11	Wells	51	18½
Lindsey	42	11	Stephens	52	18½
Minturn	42	11	Traskwood	52	18½
Downer	42	11	Lochkutter	53	18½
Alicia	42	12½	Becker	53	18½
Sand Switch No. 2.	43	12½	Wyandotte	54	18½
Swifton	43	12½	Gifford	54	18½
Pond	43	12½	Perla	54	18½
Tuckerman	43	12½	Malvern	54	18½
McCreary	43	15½	Kokomo	54	18½
Campbell's	43	15	Onachita	54	18½
Newport	44	15	Etta	54	18½
White River	44	15	Mathews	54	18½
Olyphant	44	15	Donaldson	54	18½
Grand Glaize	44	15	Arthur	54	18½
Bradford	45	17½	Witherspoon	54	18½
Harley's	45	17½	Arkadelphia	55	20
Russell	45	17½	Gum Springs	55	20
Lippman	45	17½	Ford	55	20
Chatterson	45	17½	Freeman	55	20
Bald Knob	45	17½	Reeves	55	20
Costello	45	17½	Curtis	55	20
Judsonia	45	17½	Smithton	55	20
Kensett	45	17½	Powers	55	20
Hedrick	45	17½	Gurdon	55	20
Higginson	45	17½	Miles Mills	56	20
Garner	45	17½	Rowley's	55	20
Root	45	17½	Bleme	55	20
Beebe	45	17½	Mitchell	56	20
Ward	45	17½	Brett's	56	20
Austin	45	17½	Broughton	57	20
Cabot	45	17½	Prescott	57	20
Holland	45	17½	Steele	58	21½
Jacksonville	45	17½	Emmett	58	21½
Atkins	45	17½	Wood Switch	59	21½
McAlmont	45	17½	Hope	59	22½
Buchanan	45	17½	Guernsey	60	22½
Loomis	45	17½	Sheppard	60	22½
Fort Smith Crossing	45	17½	Weaver	60	22½
Baring Cross	45	17½	Fulton	60	22½
Little Rock	45	17½	Homan	60	25
Ensign	47	17½	Mandeville	60	25
Mablevale	47	18½	Collins	60	25
Eisenmeyer	48	18½	Texarkana	60	25
Felocbet	48	18½			

* From Saint Louis.

† To Saint Louis.

Q. Have you cotton-seed-oil rates on the Queen and Crescent line?—
A. I have sir.

Q. You say you have cotton-seed-oil rates on the Queen and Crescent line?—A. Yes, sir.

Q. Has that been since the decision of the Interstate Commerce Commission?—A. Just about the time of the decision March 3, 1888, is the date of letter.

Q. What letter is that, and how did you get your information as to cotton-seed rates?—A. This is a letter that I had written to the Queen

and Crescent system asking for rates on turpentine and cotton-seed oil from certain points in the South in order that I might get some to load my tank cars back.

Q. That is not a letter which you wrote?—A. No, sir; it is a letter from the Queen and Crescent to myself, dated March 3, 1888.

Q. It is from that letter that you get your information?—A. Certainly.

Q. Now, where did you get your information as to the rates prevailing at the same time between the same places on petroleum?—A. From the tariff sheets.

Q. Now, if you will give us, so that the stenographer can put it down, from point to point the rates on cotton-seed oil, and then immediately following each one the rate on petroleum between the same points per hundred pounds?—A. The rate on cotton-seed oil from Savannah to Cincinnati is 29 cents a hundred; on coal oil it is 44 cents a hundred.

Q. Coal-oil goes in the opposite direction?—A. Yes, sir. The rate on cotton-seed oil from Tuscaloosa, Ala., to Cincinnati is 25 cents per hundred pounds, and on coal oil going down back over the same route between the same points from Cincinnati back to Tuscaloosa is 44 cents a hundred. Now the rate on turpentine from all points at local stations on the New Orleans and Northeastern road, which is a branch of the Queen and Crescent system, to Ludlow, Ky., and Cincinnati is \$90 a car, which is equal to 24½ cents per hundred pounds, and the rate on coal oil is 44 cents a hundred between the same points going in opposite directions. From Chattanooga, Tenn., to Cincinnati, Ohio, the rate on turpentine in tank cars is 12 cents per hundred pounds, and on coal oil going the other way over the same distance from the same point is 33 cents per hundred pounds.

Q. State whether you have any knowledge of the fact that when you had been driven out of any district by competition, either resulting from differential rates on the railroad or from the reduction of price on petroleum, whether the prices were advanced.—A. Yes, sir. In almost all cases where we sold oil delivered by the car-load outside of our agencies the price most invariably was cut down right sharp, below what we have sold for, to the parties residing at these various places; and, in the first place, when we made these sales we had to make them at a lower price than the market price at the time we sold it, in order to make the sale.

Q. The question is, after your competition was killed the rates were put back or advanced again when you were driven out of the district?—A. They put the rates right back again. The prices were restored back at once.

Q. State whether or not the Louisville and Nashville Railroad, or their general freight agent, at any time refused to give you rates from Louisville or Nashville to given points on coal oil.—A. Last fall, September or October—along there—they absolutely refused to give me rates from Louisville to Nashville and other southern points for two or three or four months. The idea of that was to force me to ship my freight via Cincinnati at a higher price. It cost me 40 cents a barrel more via Cincinnati to Nashville than if I had gone direct to Louisville and got my rate there, but they would not give me any rate.

Q. So that to get to Louisville your rate would have been higher than your rate to the other shipping points?—A. Yes, sir.

Q. State whether the Louisville and Nashville road at that time refused to give you rates on turpentine and cotton-seed oil as back-load

from Mobile.—A. During the last two or three months they absolutely refused.

Q. Did you call their attention to it?—A. Several times.

Q. Have you ever called their attention to the fact that in giving you rates they did not give you Mobile rates, and you demanded them?—A. Certainly.

Q. Did they give you the rates from Mobile?—A. No, sir.

Q. Is not Mobile a central point for freights shipped north?—A. Yes, sir; quite a central point.

Q. Was this refusal since the Interstate Commerce decision in your case?—A. Yes, sir; since that decision.

Q. What evidence have you, if any, or what can you tell this committee upon the subject of attempts to intimidate persons who dealt with you or acted as your agents, or persons who purchased supplies of oil from you throughout the Southwest?—A. I have got hundreds of letters in my room now, where they sent me letters.

Q. Who sent you letters?—A. These various customers of mine that I sold to, and my agents as well; principally they were my customers. They extend back, some of them, five or six years, the letters that I have collected and got on file, where these various customers have written to me. They would try to buy oils from me, and they were threatened and intimidated. For instance, take it in Texas. I have had an agent to go around and make up car-loads in five and ten barrels. The Standard agents would find out about it, and go around there, and by various means and insinuations threaten them not to buy this oil. I have had eight or ten telegrams come from one town countermanding the order before we shipped. That has been done in a number of cases.

Q. Do you know whether any system of intimidation has been carried to the extent of interfering with the prices of products, or dealing with other products than oil, as the penalty for dealing in your oil; for instance, in competition with merchants? Have you any knowledge on that subject?—A. Only by newspaper publications, in a general way. I have no personal knowledge.

Q. Have you a letter with you from Mr. Fraser upon the subject of rates upon other companies?—A. Yes, sir.

Q. Will you bring up those letters?—A. Yes, sir; I thought they would be a little cumbersome. I have underscored them where these expressions come in generally so that you can see them right quick.

Q. (Handing witness a letter.) State whether that is a letter to you from Mr. Fraser the general freight agent of the Cincinnati, Washington and Baltimore.—A. Yes, sir; that is the letter.

Mr. GOWEN. I offer this letter in evidence. The letter is as follows:

[E. N. Fraser, General Freight Agent.—All special rates unless sooner revoked expire with the year.]

CINCINNATI, WASHINGTON AND BALTIMORE RAILROAD COMPANY,
GENERAL FREIGHT OFFICE,
Cincinnati, July 8, 1884.

GEO. RICE, Esq.,
Marietta, Ohio:

DEAR SIR: Your favor 4th. I have been hammering the life out of the Cincinnati Southern Railroad for the past month relative to rate on oil to Chattanooga, and every time I have seen them have been put off with the remark, *Will surely let you know in a day or two.* This is about all the satisfaction I have been able to obtain up to the present time, although I have written them an urgent letter again to-day requesting an immediate reply.

To speak plainly, Chess, Carley & Co. and Alex. McDonald & Co. are watching them like "hawks," and the Cincinnati Southern folks are very careful about committing them-

selves, although I know from conversations we have had they want your business, and would gladly "close one eye" and say go ahead, if they could keep the Standard Company cool.

Just what the result will be, and how long we must wait for an answer, are questions which can not be solved at present, but you may rest assured I will do all in my power to bring the matter to a head.

I quoted rate by wire to Agent Lucas, June 11, on oil to Earlington, Ky., of 41 cents per hundred pounds, from Cincinnati via Louisville and Nashville Railroad. Have no record of any papers from you on the subject.

Yours, truly,

R. M. FRASER,
G. F. A.

Q. The decision of the Interstate Commerce Commission in your case required railroad companies to charge for the transportation of oil in barrels the same rate per hundred pounds as was charged in tanks, did it not, over the same distance?—A. Yes, sir.

Q. In the case of oil in barrels the weight of the barrel is also charged and paid for?—A. Yes, sir.

Q. Now what is the weight of a barrel of oil in barrels, excluding the barrel?—Three hundred and twenty-five pounds.

Q. That is also taken as the weight of a barrel of oil in a tank?—A. Yes, sir.

Q. What is the weight of the barrel?—A. The decision of the Commission is 75 pounds.

Q. So that the barrel and the oil together will weigh 400 pounds as against 325 pounds for the barrel of oil in the tank?—A. That is it exactly.

Q. And you have to pay on an equal number of gallons as that shipped in tanks and 75 pounds dead weight for every 325 pounds of car load?—A. Yes, sir.

Q. What percentage does that make?—A. Twenty-three and twenty-three one hundredths per cent. I would have to pay that per cent. more.

Q. At the same rate per hundred pounds you are paying per barrel of oil 23.23 per cent. more than those who ship in tanks?—A. Certainly.

Q. Now have you made a statement of what that would amount to per barrel at the various rates of 50 cents, \$1, \$2, \$3, \$4, and \$5?—A. Yes, sir; and you have the statement there.

Q. Just read it off in this way: Where the rate amounts to 50 cents per barrel for oil carried in tanks, what would it be for oil when carried in barrels?—A. Sixty-one and sixty-six hundredths cents per barrel.

Q. Where the rate would be \$1 in tanks, how much would it be for the same quantity of oil in barrel?—A. One dollar and twenty-three cents per barrel.

Q. And \$2?—A. Two dollars and forty-six cents.

Q. Three dollars?—A. Three dollars and sixty-nine cents.

Q. Four dollars?—A. Four dollars and ninety-two cents.

Q. Five dollars?—A. Six dollars and sixteen cents.

Q. What are the highest rates per barrel that you have been known to pay for the longest distance you shipped over?—A. We shipped a car a year or two ago, or two or three years ago, to Santa Fé, N. Mex. It is about the farthest, I think, we ever shipped.

Q. What rate per barrel?—A. I do not recollect what it was then, but I have a letter here showing the rates November 7, 1887, from the Atchison, Topeka and Santa Fé Railroad Company, in which the rate per hundred pounds between barrel and tank cars would make an advantage of \$1.13 a barrel to the Standard or anybody else shipping in tank cars as against oil in barrels.

Q. Even if the same rate per hundred was charged?—A. Even if the same rate per hundred was charged.

Q. State whether that difference alone, a difference that varies in certain places from 11 cents to over \$1 a barrel, would not exclude you in sharp competition from the business.—A. Certainly.

By the CHAIRMAN:

Q. Have you in mind so that you can give us the prices at which oil was sold at any points before you went into competition, during the time you were in competition, and after you were excluded or withdrew from it?—A. I think so. There is a general statement that is here, giving the prices at various places when I went in and what the prices were knocked down to.

By Mr. GOWEN:

Q. That statement only covers two points. It does not cover what the rates may have been advanced to after you went out of competition. The chairman asked you for the points at which it was before you went in, after you went in, during the time you were in, and you have only covered two points.

The CHAIRMAN. It does not cover the rises in price after you withdrew?

The WITNESS. No, sir; but in a general way I can state that these prices were restored immediately to the original.

Q. Would you be able to make up such a statement from data or actual facts in your possession?—A. I do not know, hardly, that I could make up such a statement as that. I only know that to be the case on general principles and general knowledge. It would be pretty hard to make up such a statement as that.

By the CHAIRMAN:

Q. You say, then, that you are unable to give the prices to which oil was put after you withdrew from competition?—A. I think that would be pretty hard to make up.

Q. I asked if there was any case about which you knew that matter, and, if so, you can give us the price. If there is not any, you can just say so.—A. I do not recollect of any that I can give.

By Mr. BUCHANAN:

Q. In speaking about the difference in rates between oil in tanks and oil in barrels you spoke of 75 pounds of dead weight, but that 75 pounds is also hauled by the transportation company, is it not?—A. Yes, sir.

Q. In the sale of oil by the barrel, do you obtain anything for the package?—A. That is included in the price.

Q. Will 325 pounds of oil in the barrel bring any more in the ordinary market than 325 pounds in bulk?—A. It brings more; the extra price of the package.

Q. That is precisely what I asked you, whether you obtained anything then for the package?—A. Certainly, we get pay for the package.

Q. What do you ordinarily get for the package?—A. It cost us about 2½ cents a gallon.

Q. My inquiry was what do you get, not what it costs you.—A. We got it on a basis of what the barrel cost us—2½ cents a gallon.

Q. You pay for the package when you buy your oil, and you get pay for your package when you sell your oil?—A. That is it.

Q. And at precisely the same figure in each instance. In other words, is there any profit to you on the package?—A. That is all included in together, the package and the oil.

Q. But in reckoning your prices for the oil and package at the point of delivery, do you include in that the price of the package?—A. Certainly we do.

Q. Now then, in including that do you include it at an enhanced price, a profit, or at the same price that it originally cost you?—A. If we sell the oil at a profit, the barrel goes in as a part of the profit.

Q. Have you any more definite answer to make than that?—A. I do not see how I could.

Q. In fixing a price for your oil you endeavor to obtain a profit on your package as well?—A. Certainly. That enters into the general cost, and we endeavor to get a profit on the package; it is all figured together.

Q. How many gallons are in one of these packages?—A. It averages 50 gallons.

Q. And the cost to you of those packages is about 2½ cents?—A. Yes, sir.

Q. Do you buy your barrels ready made or have them made yourself?—A. Buy them ready made.

Q. Since this last decision of the Interstate Commerce Commission of which you have spoken, requiring companies to carry oil at the same rates in the barrel that they do in bulk, would it be fair in your judgment to require the companies to transport the package weighing 75 pounds for nothing?—A. Yes, sir; I think the package ought to offset the cylinder, and in the transportation of all the refined oils from the Pennsylvania oil region to the sea board for the last few years that has been their rate. They have carried the oil, including the package, for the same money that they have for 50 gallons in bulk. Of course the decision was rendered by the Commission against Southern companies. They had had more or less cotton-seed oil and turpentine to bring back. I think that had its effect, because they had return loads to a certain extent.

Q. You think, then, that the transportation of the package weight of the cargo would about equal the use of the cylinder?—A. Yes, sir; where they have no return loads, and there is not 5 per cent. of tank cars in this country that is loaded back. I suppose this decision applies to the whole country. That is the way I take it.

Q. Was that point presented at the Interstate Commerce Commission?—A. Yes, sir.

Q. And overruled?—A. I contended that I ought to have a gallon of oil shipped in barrels as cheap as they ship theirs in tank cars.

Q. But they did not go as far as that?—A. No, sir; they based it on a hundred pounds.

Q. You spoke about orders being obtained for you by your agents at different points, and before you filled the orders they would be countermanded.—A. By wire.

Q. Have you any of the telegrams countermanding those orders?—A. Yes, sir; I can get you up several cases and present them here.

Q. I would like to have a few of those telegrams.—A. Yes, sir; but I can not get them here before probably next week.

Q. The first session of the Fiftieth Congress will continue beyond next week, and you can have an opportunity to present them.—A. I will have them for you.

Q. Is it the case in mercantile and commercial transactions, where competition is sharp, that sometimes orders are obtained and a competitor for business visits the buyer and offers the goods at cheaper

rates, and those orders are countermanded; is that so in other fields of commercial enterprise?—A. To a certain extent.

Q. To a considerable extent?—A. I presume it is.

Q. The practice of underbidding is not unknown to the commercial world?—A. No, sir; I do not think it is.

Q. Have you any definite facts in your knowledge which will enable the committee to determine whether the countermanding of these orders was the result of underbidding simply, or of intimidation?—A. I have lots of letters that will prove the fact, which I have in town here at my room. They are the best evidence.

Q. About being the best evidence on that point, I think the committee will form the deductions. I incline to agree with you that it is the best evidence. Since the decision of this Interstate Commerce Commission bears, as you claim, particularly upon you, although it has afforded you some relief, although not as much as you think it should, why do you not ship in tank cars?—A. That is what I have started in now. I bought ten tank cars within the last two or three months, and am commencing to use them; but several of the lines, after they had their meeting in Louisville, agreed that they would pay mileage both ways on tank cars, as well as on other foreign cars—box cars. They immediately thereafter, a short time, raised it to 3 cents, with the understanding that they would charge either three-quarters of a cent or 3 cents, if I or anybody else would not allow the roads the use of those cars to bring back cotton-seed oil or turpentine. Then they reduced it back within the last month to three-quarters of a cent.

Q. To be practical, is it not your belief, after your experience with the Interstate Commerce Commission, and seeing the scope and effect of its decision, that if you put upon these lines tank cars of your own you will be protected by that Commission against improper discrimination?—A. I think the Commission will do everything in their power to do that, but I do not believe, notwithstanding that, I will get the same rates off the rail lines in this country. I have all confidence in the Commission, but I do not believe I will get the same rates as the Standard Oil Company.

Q. I am asking these questions with a view of ascertaining what defects, if possible, exist in the interstate commission act, and what seems necessary to be changed.—A. I do not think the Interstate Commerce Commission is radical enough to cure the evil. I think there are two important remedies that ought to be added.

By the CHAIRMAN:

Q. Suppose you state them?—A. The first one would be, that all these fines and penalties should apply to the shipper as well as to the carrier. The next is the fines and penalties should go to the informer instead of to the Government. If I myself spend all my time, and am put to great trouble in looking after these matters, I think I should be remunerated for it. I do not think the Government is entitled to anything of that kind. Those are two important amendments, which, I think, ought to be added.

TESTIMONY OF GEORGE R. SAFFORD.

GEORGE R. SAFFORD, sworn and examined.

By Mr. GOWEN.

Q. Where do you reside?—A. Parkersburgh, W. Va.

Q. What is your business?—A. Hotel keeper.

Q. Were you at one time connected with the Cincinnati, Washington and Baltimore line?—A. I was in the general freight office at Parkersburgh from 1874 to the 15th of last April.

Q. In what capacity?—A. All around the office, in one capacity and another. When I left the service of the company I had charge of the west-bound freights.

Q. Did that give you charge of the billing of oil from Parkersburg?—A. It did.

Q. Parkersburgh is the eastern terminus of the Cincinnati, Washington and Baltimore is it not?—A. Yes, sir.

Q. State whether you know, as a matter of fact derived from your knowledge of this business, that freights on oil from Parkersburgh and Marietta, going westward, were equal?—A. I do not know anything about that.

Q. You know the Camden Consolidated Oil Company?—A. Yes, sir.

Q. That is one of the oil concerns that is connected with the Standard Oil Company?—A. I don't know anything about that.

Q. Can you tell us what the lowest net rates from Parkersburgh to Cincinnati on tank cars were to the Camden Consolidated Company?—A. No, sir.

Q. Why can you not?—A. Simply because it was not my business, and I never inquired into anything I was not paid for. I would not now attempt to state what the rates were, because I was responsible for the naming of the rate claimed by the company, and consequently referred to papers in the office whenever naming a rate. I did not trust to my memory to name a rate. I signed bills of lading for which I was responsible, and consequently referred to each shipment for written or printed rates.

Q. Are you not able to give us from memory the rates paid by the Camden Consolidated Company for oil at Parkersburgh?—A. I do not think I could. I might be right and I might be wrong, we had so many different rates.

Q. To Cincinnati, for instance?—A. My recollection of the tank rate to Cincinnati was 32 cents per barrel.

Q. Were not the shipments made for so much per tank car, and not per barrel?—A. Not since April 1 of last year, when the interstate commerce act went into effect.

Q. Prior to that time the rates were made in tank cars, so much per tank car?—A. That is my recollection.

Q. Tell us what that rate was.—A. I think \$30 to Cincinnati, except the Ohio and Mississippi Railroad, which had a rate of \$24. That was the only difference.

Q. Don't you know that the net rate was \$19 to Cincinnati?—A. I don't know anything about the net rate.

Q. How was the net rate ascertained as distinguished from the tariff rates?—A. I can not say.

Q. Had you any knowledge of drawbacks or rebates being paid?—A. No, sir.

Q. Would they have come through your office?—A. No, sir; if there was anything of the kind it was settled through the general freight office, I suppose.

Q. Am I to understand the rate you have named is the lowest way-billing rate you know of?—A. Yes, sir; and the only rate I know of.

Q. Can you tell us anything about the rates of oil in barrels prior to the Interstate Commerce Commission?—A. I do not think I recollect it. You see my business was of a general character. Shipments of various

character passed through my hands, and so much so that I did not depend upon my memory for anything, either for classification or for rates. I referred right to the papers in the office.

Q. If a special rate different from the tariff sheets had been allowed to anyone, what notification would your office have had of that?—A. A copy of the notice was sent by those interested to the office billing the freight and the point receiving it, or the connecting point.

Q. And so long as the special rate remained in your office you would bill at that rate and not at the tariff rate?—A. Yes, sir.

Q. What notice would you get of the withdrawal of that rate?—A. Either a termination of the rate or a letter withdrawing it.

Q. Through whose department would a notice of allowance be made?—A. I think the general freight office.

Q. It did not come into your office?—A. No, sir.

Q. Now, state what you know of the bridge charge for passing cars at Parkersburgh, what rate per car?—A. There was a statement made up in the office showing bridge tolls on general freight and bridge tolls on oil, copies of which were furnished to the general freight agents of the Cincinnati, Washington and Baltimore, and Baltimore and Ohio.

Q. What was the rate of bridge toll on oil?—A. Now, there is an allowance of 4 cents a barrel in barrels and \$4 a tank in tanks, deducted from the gross price per barrel or tank before the prorate. Prior to the interstate commerce act there was no deduction made, so far as shown, in our office.

Q. Prior to the interstate commerce act the prorate went over the whole freight without this terminal being deducted?—A. Yes, sir.

Q. After the interstate commerce act a terminal charge of \$4 per tank car and 4 cents per barrel was deducted from the through rate before the prorate?—A. Not from the through rate, but from the total freight.

Q. Do you know the Continental Line?—A. I have handled that business for some time; yes, sir.

Q. What was that line?—A. It was, as I understand it, a system of billing over the Baltimore and Ohio, and Cincinnati, Washington and Baltimore, and Ohio and Mississippi roads and their connections and branches.

Q. Did the Continental Line own cars?—A. Not as a line; they did not. Each line which entered into it, I understand, put in so many cars.

Q. It was a freight line?—A. Yes, sir.

Q. Do you know whether the Continental Line had special rates?—A. I do not. Parkersburgh is not a Continental Line point.

Q. Did not the Camden Consolidated Oil Company ship from Parkersburgh by the Continental Line?—A. No, sir; they shipped by the Cincinnati, Washington and Baltimore, or Baltimore and Ohio.

Q. Do you know whether the Continental Line had any rates different from the public rates through your office?—A. No, sir. A little explanation is needed there, I expect. We merely took an abstract of Continental Line bills. We did not examine them as to their correctness in any particular at Parkersburgh.

Mr. GOWEN. I will offer in evidence the decision of the Interstate-Commerce Commission in the case of Rice against the various railroads.

Mr. SMITH. The whole of that?

Mr. GOWEN. Yes, sir; that is, just the decision and the findings. The testimony is a great deal larger. I offer in evidence the pamphlet which Mr. Campbell identified on the stand. It is the history of the

organization, purposes, and transactions of the Producers' Union, the early history of the case showing the agreement with the railroad and the litigation. I also offer in evidence the contracts between the South Improvement Company and the New York Central and Hudson River Company; between the South Improvement Company and the Erie Railway Company.

The CHAIRMAN. Are they identical, so that we may not have to print them again?

Mr. GOWEN. They are identical; the same schedule of rates is named in each, and the one entered into with the Pennsylvania Railroad Company provides that it was made with the Pennsylvania Railroad not only on account of itself, but on behalf of these other roads, and their proportions are named in it, so that I suppose it is hardly worth while to burden the record with additional ones.

The CHAIRMAN. These contracts are admitted in evidence, but with the permission of the committee I will have the stenographer note that they are not to be extended upon the record on account of their being identical with the contracts with the Pennsylvania Railroad Company which have already been introduced in evidence.

Mr. GOWEN. They are all dated the same day, January 18, 1872. I desire to offer in evidence portions of the testimony of Thomas L. Kimball before the Pacific Railroad Commission, in volume 3 of the testimony taken by the United States Pacific Railway Commission, page 1040, from A to B; page 1132 A to 1133 B; page 1374, from A to B; page 1394, from A to B; page 1400 A to 1403 B; page 1408, from A to B; page 1413 A to 1414 B; page 1439 from A to B; page 1468, from A to B.

Extracts from the testimony of John C. Stubbs before the Pacific Railway Commission, from volume 6 of the testimony taken before the United States Pacific Railway Commission, from page 3288 A to page 3289 B; from page 3301 A to page 3302 B; page 3325, from A to B.

Extracts from the testimony of Richard Grey before the Pacific Railway Commission, volume 6 of testimony taken by the United States Pacific Railway Commission, page 3572, from A to B; page 3580, A to 8581 B.

In all these cases the letters "A" and "B," respectively, are placed at the beginning and ending on the margin of the extracts that are to be taken.

This testimony relates entirely to the question of rebates and allowances given to the Standard Oil Company and some other corporations that are in that country called the Consolidated Tank Line Company and the Continental Oil Company.

I was going to say to Mr. Buchanan and other gentlemen that where I offered the evidence of Mr. Campbell and Mr. Cassatt, although I only read extracts from the examination in-chief, in all cases I copied out the entire examination as well as the cross-examination and handed it all to the stenographer.

Before the Interstate Commerce Commission.—George Rice *vs.* The Louisville and Nashville Railroad Company. The same complainant *vs.* The St. Louis, Iron Mountain and Southern Railway Company. The same complainant *vs.* The Mobile and Ohio Railroad Company. The same complainant *vs.* The Cincinnati, New Orleans and Texas Pacific Railway Company. The same complainant *vs.* The Cincinnati, New Orleans and Texas Pacific Railway Company and the Alabama Great Southern Railway Company. The same complainant *v.* The Mississippi and Tennessee Railroad Company. The same complainant *vs.* The Newport News and Mississippi Valley Company and the Louisville, New Orleans and Texas Railroad Company. The same complainant *vs.* The Newport News and Mississippi Valley Company and the Illinois Central Railroad Company. The same complainant *vs.* The Illinois Central Railroad Company.—Hearing for taking testimony November 21 to 28, 1887.—Hearing for argument January 16, 17, 18, 1888.

OPINION OF THE COMMISSION.

COOLEY, *Chairman*:

The questions at issue in these cases are to some extent identical and, where not the same, are so far similar that it was deemed practicable by the parties that they should all be tried together. They have accordingly been so tried, the evidence being, by consent, taken in the case first entitled, but received and applied in each of the others, so far as it was found to be applicable. The principal grievance complained of is that the defendant companies discriminate against the complainant in their charges for the transportation of petroleum oil; but the rates for the transportation of the oil in barrels, which is the method made use of by complainant, are also alleged to be excessive, and in some cases a violation of the fourth section of the act to regulate commerce is complained of. The petition in the case first entitled, after setting out the line of the defendant's road and the cities and other points reached thereby, proceeds to say:

"That one of the important duties of said Louisville and Nashville Railroad Company is the transportation of refined illuminating petroleum oil (mostly produced and manufactured in the States of Pennsylvania and Ohio) from Cincinnati, Ohio, and Louisville, Ky., to the aforementioned cities and other points on the said carrier's said lines of railroad in the said several States and other States into and through which said carrier's railroad lines pass.

"That such oil is an article of extensive commerce and of prime necessity to the people reached by said carrier's railroad lines, and that in the transportation of such oil by said carrier two prevailing methods are employed, one by means of box cars, carrying the oil in barrel packages, and the other by iron tank cars, generally holding 100 barrels and upward, built and used for that express purpose.

"And said complainant further says that he is engaged at Marietta, Ohio, and in that vicinity in the business of producing, manufacturing, and dealing in such petroleum oils, and shipping the same to various markets in the Southern and Western States of this country; that he has large capital invested in this business and extensive facilities therefor, and, but for the acts of said carrier hereinafter complained of, would produce and sell many thousands more barrels of such oil than now; that many of his principal markets for his said manufacture are in the territory reached and traversed by said carrier's system of railways; that it is absolutely essential to the continued existence and success of his said business that he should have rates and facilities both reasonable in themselves and equally as favorable as those accorded to his competitors for the transportation of said products to such markets, many of which can only be reached by said carrier's roads and none of which can be reached as conveniently or cheaply by any other means, if said complainant is accorded reasonable and just rates by said carrier.

"Complainant further states that the Standard Oil Company, a corporation organized and existing in and under the laws of the State of Kentucky, is a very extensive dealer

in and shipper of such petroleum oils, and is his chief and almost sole competitor for the sale thereof in the aforesaid markets."

"And said complainant further states that said carrier has been guilty of violation of the provisions of the act of Congress of the United States of America entitled 'An act to regulate commerce,' approved February 4, 1887, and which took effect April 5, 1887, in the following particulars, to wit:

"*First charge.*—By making charges for services to be rendered by said carrier in the transportation of such as aforesaid from Cincinnati, Ohio, and said Louisville, Ky., to points on the said carrier's said railroad lines in the said States other than Ohio and Kentucky which were in themselves unjust and unreasonably high.

"Under this charge the complainant makes the following specifications, each and all of which are rates per 100 pounds charged by said railroad company on May 9, 1887, and, as complainant is informed and believes and so alleges, ever since that day for services to be rendered by said company in the transportation in barrel packages in car-load shipments of such oils from said Louisville, Ky., to the respective destinations named, each and all of which destinations are points reached by the lines of railroad owned, leased, and operated by said railroad company, and each and all of which rates complainant alleges to be unreasonable and unjust.

- "1. Mobile, Ala., 30 cents.
- "2. New Orleans, La., 30 cents.
- "3. Montgomery, Ala., 45.7 cents.
- "4. Selma, Ala., 45.7 cents.
- "5. Birmingham, Ala., 45.7 cents.
- "6. Nashville, Tenn., 18½ cents.
- "7. Memphis, Tenn., 15 cents.
- "8. Clarksville, Tenn., 16.3 cents.

"9. All other points reached by said lines of railroad located in States other than Kentucky, the rates of which appear in the statement of rates required by said act of Congress, and on file with said commission, and each and all of which rates complainant alleges to be unreasonable and unjust. Complainant, under charge, also makes the following specifications, each and all of which are the rates per 100 pounds charged by said railroad company for the transportation of such oils in barrel packages, in car-load shipments from Cincinnati, Ohio, to the respective destinations named, each and all of which are points reached by the lines of the railroad owned, leased, and operated by defendants, and are in States other than the State of Ohio, which rates appear on the tariff sheets of defendant, furnished by it to complainant May 9, 1887, as showing its rates then in force, and which rates complainant is informed and believes and alleges have ever since been in force, each and all of which rates complainant alleges to be unreasonably high and unjust.

- "10. Nashville, Tenn., 25 cents.
- "11. Decatur, Ala., 50 cents.
- "12. Birmingham, Ala., 59 cents.
- "13. Calera, Ala., 59 cents.
- "14. Montgomery, Ala., 59 cents.
- "15. Selma, Ala., 59 cents.
- "16. Pensacola, Fla., 45 cents.
- "17. Mobile, Ala., 39 cents.
- "18. New Orleans, La., 39 cents.

"*Second charge.*—Complainant, for a second charge against defendant, alleges that defendant has ever since April 5, 1887, charged complainant for services to be rendered by the defendant in the transportation of such oils for complainant from said Cincinnati, Ohio, to points in States other than Ohio reached by the lines of railroad owned, operated, and leased by defendant, and from Louisville, Ky., to points in States other than Kentucky reached by said lines of railroad, a greater compensation than it charged said Standard Oil Company of Kentucky for like and contemporaneous services rendered and to be rendered by defendant for said company in the transportation of such oils for said company, said company being sometimes consignee thereof and sometimes consignor thereof, and sometimes both consignee and consignor thereof from said Cincinnati, Ohio, to said points in States other than Ohio, and from said Louisville, Ky., to said points in States other than Kentucky, all of said transportation, both for complainant and said Standard Oil Company, being under substantially similar circumstances and conditions.

"Under the above charge complainant makes the following specifications:

- "1. The following is a statement of the rate per 100 pounds charged by defendant on May 9, 1887, and ever since, to claimant and to said Standard Oil Company of Kentucky, for the transportation of such oils from Louisville, Ky., to the respective destinations named.

Destination.	To George Rice.	To Standard Oil Company.
	<i>Cents.</i>	<i>Cents.</i>
Montgomery, Ala.....	45.7	30
Selma, Ala.....	45.7	30
Birmingham, Ala.....	45.7	30
Nashville, Tenn.....	12½	15
Memphis, Tenn.....	15	12½

"2. The following is a statement of the rate per 100 pounds charged by defendant on May 9, 1887, and ever since, to complainant and said Standard Oil Company of Kentucky, respectively, for the transportation of such oils from Cincinnati, Ohio, to the respective destinations named :

Destination.	To George Rice.	To Standard Oil Company.
	<i>Cents.</i>	<i>Cents.</i>
Decatur, Ala.....	50	46
Birmingham, Ala.....	59	47
Calera, Ala.....	59	47
Montgomery, Ala.....	59	47
Selma, Ala.....	59	47
Pensacola, Fla.....	45	40
Mobile, Ala.....	39	34
New Orleans, La.....	39	34

"3. Defendant has in all its charges to complainant for services rendered and to be rendered by it in the transportation of oils for him over its said lines of railroad charged him for the entire actual weight of such oils, while defendant has in many instances, too numerous to mention without unduly encumbering the record, since April 5, 1887, charged said Standard Oil Company for services rendered it or to be rendered by it for said Standard Oil Company in transportation of oils over its said lines of railroad for much less than the actual weight of such oils.

"4. The freight weight charged by defendant to complainant ever since April 5, 1887, for the transportation of such oils in barrel packages, car-load shipments, owner's risk, from Louisville, Ky., to Huntsville, Ala., is 37 cents per 100 pounds, including the weight of barrels, which is the rate for such transportation appearing in the tariff sheet of defendant in force ever since April 5, 1887, yet about May 1, 1887, a car-load of oil, containing 66 barrels oil, weighing, including barrels, 24,750 pounds, was delivered by said Standard Oil Company to defendant at Louisville, Ky., to be transported to Huntsville, Ala. Said oils were consigned to Halsey Brothers, at Huntsville, Ala., who were the agents at said place of said Standard Oil Company and competitors in business at said point with complainant. Said oils were transported from Louisville, Ky., to Huntsville, Ala., and the charge made by defendant for such transportation was \$68.07, or 27½ cents per 100 pounds.

"Third charge.—Complainant, for a third charge against defendant, says that the defendant in its rates charged by it for services rendered and to be rendered by it for the transportation of said oils for complainant and said Standard Oil Company from Cincinnati, Ohio, to points reached by defendant's said lines of railroad in States other than Kentucky has, since April 5, 1887, uniformly made and given undue and unreasonable preferences and advantages to said Standard Oil Company of Kentucky and to certain localities on its lines of railroad, and has subjected complainant and certain localities on its lines of railroad to undue and unreasonable prejudices and disadvantages.

"Under the above charge complainant makes the following specification :

"1. Complainant here repeats under this charge specification No. 1 under the second charge of his complaint, and alleges that the differences in the circumstances surrounding the shipments of said George Rice and said Standard Oil Company, and that any differences to defendant in the cost and expense and convenience of transportation of such oils

of said George Rice and said company, respectively, and any differences between the circumstances under which said George Rice and said company, respectively, ship their oils justifying any difference in rate, if there be any, are small and insignificant in comparison with the differences in the rates so charged them, respectively.

"Complainant here repeats under this charge specification No. 2 under the second charge of his complaint, and alleges that the differences in rates therein appearing are not measured by any differences in the circumstances surrounding the shipments of said George Rice and said Standard Oil Company, and that any differences to defendant in the cost and expense and convenience of transporting such oils for said Rice and said company, respectively, and any differences between the circumstances under which said Rice and said company, respectively, ship their oils justifying any difference in rate, if there be any, are small and insignificant in comparison with the differences in the rates charged them, respectively."

"Complainant is informed and believes and therefore states that—

"3. Defendant owns a number of tank cars, as hereinbefore described, and furnishes the same to the said Standard Oil Company for its use in transporting oil shipped by said company from Cincinnati, Ohio, to points reached by defendant's said lines of railroad in States other than Ohio and from Louisville, Ky., to points reached by defendant's said lines of railroad in States other than Kentucky, but refuses to furnish the same to said George Rice for his use in transporting oil from said Cincinnati, Ohio, and Louisville, Ky., to such points in States other than Ohio and Kentucky."

"4. Defendant in its freight rates for the transportation of such oils from Cincinnati, Ohio, to points reached by defendant's said lines of railroad in States other than Ohio and from Louisville, Ky., to points reached by defendant's said lines of railroad in States other than Kentucky almost uniformly since April 5, 1887, has charged a higher rate per 100 pounds for oil transported by it in barrel packages, in car-load shipments, owner's risk, than is charged per 100 pounds for such oils transported by it at the same time between the same points contained in tank cars, owner's risk, while at no time has there been any difference between the cost, expense, and convenience of transporting said oils by said two methods or any circumstances justifying a difference of rate between said two methods of transportation which even approximated the differences in defendant's freight rates for transportation by said two methods, any differences between the cost, expense, and convenience to defendant of transportation by said two methods, or any circumstances justifying a difference in rate between said two methods being slight and insignificant compared with the differences in rate between said two methods actually made by defendant. Complainant ships his oils over defendant's lines of railroad exclusively in barrel packages, while said Standard Oil Company ships its oil over defendant's lines of railroad almost exclusively in tank cars."

"Defendant's freight rates per 100 pounds for the transportation of such oils from Louisville, Ky., to the following destinations are the same whether the oil is carried in barrel packages or in tank cars: Mobile, Ala., New Orleans, La., Meridian, Miss., Jackson, Miss., Jackson, Tenn., Vicksburg, Miss. While defendant's freight rates per 100 pounds for the transportation of such oils from Louisville, Ky., to nearly all, if not all, the other points reached by defendant's lines of railroad in States other than Kentucky are much higher for oils carried in barrel packages than for oils carried in tank cars."

"6. Defendant's freight rates per 100 pounds for the transportation of such oils from Cincinnati, Ohio, to Nashville, Tenn., and Mobile, Ala., are the same whether the oil is carried in barrel packages or in tank cars, whilst the defendant's freight rates per 100 pounds for the transportation of such oils from Cincinnati, Ohio, to nearly all, if not all, the other points reached by defendant's lines of railroad in States other than Ohio are much higher when the oils are carried in barrel packages than when the oils are carried in tank cars."

"7. Defendant has, since April 5, 1887, charged for the transportation of oils from Cincinnati, Ohio, and from Louisville, Ky.; to Birmingham, Ala.; Calera, Ala.; Montgomery, Ala., and Selma, Ala., the same freight rates in all cases to each of said localities, although by defendant's line of road said Calera is 33 miles farther from said Cincinnati and said Louisville than said Birmingham, and said Montgomery is 63 miles farther from said Cincinnati and said Louisville than said Calera, and said Selma is 50 miles farther from said Cincinnati and said Louisville than said Montgomery; and oils transported by defendant from Cincinnati, Ohio, or Louisville, Ky., to said Selma are necessarily carried by it through said Birmingham, said Calera, and said Montgomery, and the distance from said Cincinnati to said Selma over defendant's line of road is 650 miles, and the distance from said Louisville to said Selma over defendant's line of road is 540 miles."

"Fourth charge.—Complainant for a fourth charge against defendant says that defendant has since April 5, 1887, charged and received for the transportation by it of such oils from Cincinnati, Ohio, and Louisville, Ky., to points reached by defendant's

said line of railroad in States other than Ohio and Kentucky a greater compensation in the aggregate for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance, such oils being a like kind of property in all cases, and such transportation being under substantially the same circumstances and conditions."

"Under the above charge complainant makes the following specification: The rate charged by defendant for the transportation of such oils in barrel packages in car-load shipments from Cincinnati, Ohio, to and from Louisville, Ky., to destinations named below, with the distances of each destination from the place of shipment over defendant's said line of railroad are as follows:

Destination.	From Cincinnati, Ohio.		From Louisville, Ky.	
	Distance.	Rate per 100 pounds.	Distance.	Rate per 100 pounds.
	<i>Miles.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Cents.</i>
New Orleans, La.....	921	39	811	35
Birmingham, Ala.....	504	52	534	52
Mobile, Ala.....	780	32	780	35

"Said complainant further alleges that the aforesaid discriminations against him in rates and the aforesaid unreasonably high and unjust rates charged him have had, and, as he believes, were designed to have, the effect to give to the Standard Oil Company an almost complete monopoly of the traffic in such oils at the points reached by said defendant's lines of railroad, and to exclude said complainant's products from nearly all of said points, and that such discriminations and charges, as complainant is informed and believes and therefore states, have been made by said defendant at the dictation of said Standard Oil Company, and he states that by reason of the premises he has been largely injured in his business and has lost large profits that he otherwise would have realized; that his facilities in all other respects than for said transportation during all the time since April 5, 1887, have been ample for the transaction of a large and profitable business in the sale of said oils in said markets, and that but for the premises he would have prosecuted such business to the limits of his facilities with great profit to himself.

"Your said complainant therefore prays that your honorable commission will proceed to inquire into the matters hereinbefore complained of and ascertain and find the facts with respect to the alleged violation of the said act of Congress, and the extent to which said complainant has been injured and is entitled to reparation, and report the same with your conclusions and recommendations according to law; and further that your honorable commission will notify said defendant to cease and desist from such violations, and make such reparation and will take such further action as is lawful and proper in the premises."

The petition was duly verified, and was filed July 22, 1887.

The answer of defendant is also given in full, with the omission only of formal averments and such recitals as are not necessary to an understanding of the issues made. Defendant "admits that in the transportation of said oil to some, if not all, of aforesaid towns and cities two methods are employed—one by means of box-cars, carrying oil in barrel packages, the other by iron tank cars, generally holding, not one hundred, but sixty barrels or over that amount.

"Further answering, defendant says it does not know but believes that complainant Rice is engaged at Marietta, Ohio, or in that vicinity, in the business of producing, manufacturing, and dealing in petroleum oils, and in shipping the same to various markets in the Southern and Western States of this country, but whether he has large capital or what amount of capital he has invested in said business, or whether he has extensive facilities or what facilities he has therefor defendant does not know, nor can he speak, for his belief or otherwise, but it denies that but for the alleged acts of this defendant in complainant's said bill complained of he would produce or sell many thousand more or any more barrels of such oil than he now produces and sells. Defendant admits that many of complainant's principal markets for his said manufactures are in the territory reached and traversed by this defendant's system of railways; that it is absolutely essential to the continued existence and success of his said business that he should have rates and facilities both reasonable in themselves and equally as favorable under similar circumstances and conditions as those accorded to his competitors for the transportation of said products to such markets; and defendant admits that many of them can only be reached by defendant's road, but it denies that none of said markets can be as conven-

lently or cheaply reached by any other means if complainant is accorded reasonable and just rates by this defendant. Defendant admits that the Standard Oil Company is a corporation, incorporated and organized under the laws of Kentucky, and that it is a very extensive dealer in and shipper of such petroleum oil, and defendant believes that said Standard Oil Company is the chief competitor of complainant for the sale thereof in the aforesaid markets.

"For answer to the first charge made in complainant's bill and specifications thereunder defendant says:

"(1) It is not true, and it denies that it has been guilty of any violations of the provisions of the act of Congress of the United States entitled 'An act to regulate commerce,' approved February 4, 1887, either by making charges for services to be rendered by it as common carrier in the transportation of oil from Cincinnati, Ohio, or Louisville, Kentucky, to points on all railroad lines in States other than the States of Ohio or Kentucky, or in any other manner.

"(2) It admits that on May 9, 1887, and ever since that time, for services to be rendered by it in the transportation in barrel packages, in car-load shipments, of petroleum oil from Louisville aforesaid to Mobile, Ala.; New Orleans, La.; Montgomery, Ala.; Selma, Ala.; Birmingham, Ala.; Nashville, Tenn.; Memphis, Tenn., and Clarksville, Tenn., its charges were the respective prices set out in complainant's bill of complaint, and it also admits that each one of said towns is reached by its lines of road and the South and North Alabama Railroad, except Selma, Ala., which can not be reached thereby; but defendant says that it is not true and it denies that said rates or any of them are unreasonably high or unjust.

"(3) Defendant denies that the rate or rates to all other points or to any point reached by its lines of railroad, located in any State other than Kentucky, fixed by it in its schedule required by law to be and which has been filed with the honorable commission are or is unreasonable or unjust.

"(4) It admits that the following rates per 100 pounds for shipment of petroleum oil in barrel packages, car-load shipments, from Cincinnati, Ohio, to the following points in States other than Ohio are the rates which appear on its tariff sheets furnished by it to complainant on May 9, 1887, as the rates then in force, and they are rates which are now in force, to wit:

- "Nashville, Tenn., 25 cents.
- "Decatur, Ala., 50 cents.
- "Birmingham, Ala., 59 cents.
- "Calera, Ala., 59 cents.
- "Montgomery, Ala., 59 cents.
- "Selma, Ala., 59 cents.
- "Pensacola, Fla., 45 cents.
- "Mobile, Ala., 39 cents.
- "New Orleans, La., 39 cents.

"Except that the rate furnished for shipment to Nashville, Tenn., was 28½ instead of 25 cents; that to Pensacola was 40 cents instead of 45 cents; that to New Orleans and that to Mobile was 34 cents each instead of 39 cents; and defendant admits that all of said points are reached by its lines of road, except Selma, and except all points between Decatur and Montgomery, Ala., which can not be thus reached; but defendant says it is not true, and it denies that said rates or any of them are unjust or unreasonably high.

"For answer to the second charge made in complainant's bill and the specifications thereunder, defendant—

"(1) Denies that it has at any time since April 5, 1887, charged complainant for services to be rendered by this defendant in the transportation of such oils to points in States other than Ohio reached by its lines of railroad, or from Louisville, Ky., to points in States other than Kentucky reached by said lines of railroad, a greater compensation than it charged said Standard Oil Company, of Kentucky, for like and contemporaneous services rendered or to be rendered by this defendant for said company in the transportation of such oils for said company from said Cincinnati, Ohio, or from Louisville, Ky., to said points or any of them in States other than Kentucky, and denies that the shipments referred to by complainant in his said bill were made for him and for said Standard Oil Company under substantially similar circumstances or conditions.

"(2) It admits that the rate per 100 pounds charged by it to complainant on May 9, 1887, and ever since for the transportation of such oil from Louisville, Ky., to the respective destinations named in complainant's bill is the rate given therein, to wit:

"To Montgomery, Ala., 45.7 cents; Selma, Ala., 45.7 cents; Birmingham, Ala., 45.7 cents; Nashville, Tenn., 18½ cents; Memphis, Tenn., 15 cents, and that on some oil shipped by it during that time for the Standard Oil Company defendant charged from Louisville to said respective points per 100 pounds the following rates, as stated in complainant's bill, to wit:

"To Montgomery, 30 cents; to Selma, 30 cents; to Birmingham, 30 cents; to Nashville, 15 cents, and to Memphis, 12½ cents.

"(3) It further admits that its rate to complainant on May 9, 1887, and ever since, for shipments of oil from Cincinnati, Ohio, to the following points, per 100 pounds, were the rates stated in complainant's bill, to wit:

"To Decatur, Ala., 50 cents; to Birmingham, Ala., 59 cents; Calera, Ala., 59 cents; Montgomery, Ala., 59 cents; Selma, Ala., 59 cents; to Pensacola, Fla., 45 cents; to Mobile, Ala., 39 cents, and to New Orleans, La., 39 cents, with the exception that the charge was and is from Cincinnati to Pensacola 40 cents, instead of 45 cents, and to Mobile and to New Orleans each 34 cents, instead of 39 cents; and the defendant further admits that during said time it was shipping some oil for the Standard Oil Company from Cincinnati to the aforesaid towns at the following rates per 100 pounds, to wit: To Decatur, 46 cents; to Birmingham, 47 cents; to Calera, 47 cents; to Montgomery, 47 cents; to Selma, 47 cents; to Pensacola, 40 cents; to Mobile 34 cents; to New Orleans, 34 cents, except that to Birmingham, since May 11, 1887, the rates have been a little less than 47 cents per 100 pounds. But defendant denies that in its said rates for shipment for the Standard Oil Company and for complainant from Cincinnati and from Louisville, respectively, to aforesaid respective towns or any of them, it discriminated in favor of the Standard Oil Company or against complainant, or that by said rates, shipped under the circumstances that said oils were respectively shipped, defendant charged complainant per 100 pounds a greater compensation than it charged said Standard Oil Company.

"Defendant says that all the rates for shipments for complainant made so as aforesaid from Cincinnati and from Louisville, respectively, to aforesaid respective towns were made for shipments in barrel packages and car-load shipments, and all of the rates for shipments for the Standard Oil Company so as aforesaid from Cincinnati and from Louisville, respectively, to said respective towns were made for shipments in tank-cars, cost of transportation or the shipment and risk of which is much less than the cost of transportation or shipment and the risk of a like quantity of oil in barrels; that the rate paid or to be paid as aforesaid by complainant for such shipments is the same rate per 100 pounds, neither greater nor less than was and is by defendant charged to and paid by the Standard Oil Company for shipments of oil in barrel packages, car-load shipments, at the same time and from and to the same points that said shipments for complainant were made; and defendant also states that at the same rates charged the Standard Oil Company for the shipments of its oil so as aforesaid in tank-cars from Cincinnati and from Louisville, respectively, to said several respective towns complainant could have shipped, as he well knew, his oil in like kind of tank-cars at any time on or after the 9th day of May, 1887, and the same rates as aforesaid were offered him and published in defendant's schedules of rates furnished the honorable Interstate Commission.

"(4) Defendant admits that in its shipment of oil in barrels for complainant it has charged or intended to charge him for the actual weight of such oils, and it has also charged or intended to charge in its shipments of oil in barrels for the Standard Oil Company for the actual weight of such oils, and it denies that it has in any shipment of oil in barrels made any difference in this respect between oil shipped for complainant and oil shipped for the Standard Oil Company.

"Defendant says that as to the shipment of oil in tanks for the Standard Oil Company and everybody else the same is not and never has been weighed, but the quantity contained in the tanks is estimated at a certain number of pounds; and it may be true that in some shipments for the Standard Oil Company that estimates were below the actual weight, but the same quantity of oil could have been shipped in the same manner at the same price by complainant.

"(5) Defendant denies that about May 1, 1887, it transported or contracted to transport a car-load containing 66 barrels of oil and weighing 24,750 pounds, or any other weight from Louisville, Ky., to Huntsville, Ala., for the Standard Oil Company for \$68.07, or 27½ cents per 100 pounds; at least, no record of such shipment can be found on defendant's books.

"For answer to the third charge made in complainant's bill and the specifications thereunder, defendant—

"(1) Denies that in its rates charged by it for services rendered or to be rendered by it for the transportation of said oils for complainant and the said Standard Oil Company from Cincinnati, Ohio, to points or any point reached by defendant's line of railroads in States other than Ohio and Kentucky it has, since April 5, 1887, uniformly or at all made or given undue or unreasonable preferences or advantages to said Standard Oil Company or to certain or any localities on its line of railroad, nor has it subjected complainant or certain or any localities on its lines of railroad to undue or unreasonable prejudices or disadvantages.

"(2) Defendant says, in reference to the difference in rates to complainant and Standard Oil Company, respectively, appearing in specifications No. 1 and No. 2, under the

second charge in complainant's bill of complaint, it denies that said differences are not measured, but avers that they are, by the differences in circumstances surrounding these shipments, respectively; and defendant denies that the difference to it in the cost of expense and convenience of transportation of such oils for complainant and the Standard Oil Company, respectively, or that the difference between the circumstances under which complainant and said company, respectively, ship their oils do not, but it avers that they do, justify the difference in rates made to said parties, respectively, and it denies that they are either small or insignificant in comparison with the differences in the rates so charged; and defendant says that said rates so made for the shipment of the oils for the Standard Oil Company were made for shipment of oil to be made in large and regular shipments in iron tank-cars, which tank-cars were to be furnished and the cars kept in repair by said Standard Oil Company free of expense to defendant, which oil was never on defendant's premises and there at its risk, and by which cars defendant was furnished with return loads, while the rates thus made to complainant were made in reference to the shipment of oil in barrel packages, in small quantities and irregular shipment, to be received and loaded by defendant at its expense, and held at its risk while on its premises, and the cars used for barrel shipments were thus greatly injured and rendered of less value to defendant for general purposes and were returned usually empty, so that, as this defendant believes and charges, the circumstances and conditions under which the shipments of oil for the Standard Oil Company were made were as dissimilar from the circumstances and conditions under which the oil for complainant was shipped as to justify and authorize the difference in rates to said Standard Oil Company and to complainant made so as aforesaid.

"(3) Defendant says it is not true, and denies that it owns or ever did own any tank-cars, or that it ever furnished to said Standard Oil Company such cars, or that it refuses or ever refused to furnish such cars to complainant, or that he ever applied for such; but defendant says if complainant had applied for such cars he would have been refused, for the reason that defendant did not and does not own or have such cars.

"(4) Defendant admits that it has since April 5, 1887, in its freight rates charged a higher rate per 100 pounds for transportation of oil in barrels than for oil in tanks, except when the competition with water lines and railroads or competition between markets or products has forced a reduction in rates on oil in barrels to the same or nearly the same rates charged upon oil in tank-cars; but it is not true, and defendant denies that the difference between the cost, expense, and convenience of transportation of oil by the two methods has been out of proportion to the difference between the rates by the two methods, and denies that said difference in expense, cost, and convenience is slight or insignificant, but, on the contrary, defendant avers that they were so great as to justify, as it believes, the difference in rates charged.

"(5) Defendant admits that complainant ships in barrels all the oils he ships over this defendant's lines of railroad, but it is not true and it denies that the Standard Oil Company ships in tank-cars almost all the oil which it ships over defendant's lines of railroad. Defendant says that said Standard Oil Company since April 5, 1887, has shipped over its lines of railroad in barrel packages, car-load shipments, a much greater quantity of oil than complainant has, and at the same prices from and to the same points, and it has shipped over its lines of railroad during that period about twice as much oil in barrels as it has shipped in tank cars.

"(6) Defendant admits that the rate of transportation of oil from Louisville to the following destinations are the same whether the oil is carried in barrel packages or in tank cars, to wit: Mobile, Ala., Meridian, Miss., Jackson, Tenn., New Orleans, La., Jackson, Miss., Vicksburg, Miss., and that the rates are the same for shipments from Cincinnati to Nashville, Tenn., and Mobile, Ala., and such is true, not as a matter of choice of this defendant, but because the competition with water lines, directly and indirectly, at said points, or competition with railroad lines or between markets or products reduced the rates for shipment of oil to these points to the regular rates of shipment of oil in tank cars.

"(7) Defendant admits that since April 5, 1887, it has charged for the transportation of oils from Cincinnati and from Louisville to Birmingham, Ala., Calera, Ala., Montgomery, Ala., and Selma, Ala., the same freight rate in all cases to each of said points, and that the distance from Cincinnati and Louisville by its road is to Calera 33 miles greater than to Birmingham, and to Montgomery is 63 miles greater than to Calera, and that oils transported over its lines of road from Cincinnati or Louisville to Montgomery are carried through Birmingham and Calera, but not through Selma, nor is Selma on defendant's lines of railroad; but said rates were not made nor are they controlled by this defendant. The same are fixed and regulated by the competition with water-ways and railroad lines over which defendant had and has no control, and are in and of themselves fair, just, and reasonable.

"For answer to the fourth charge made in complainant's bill and the specifications thereunder, defendant—

"(1) Denies that it has since April 5, 1887, charged or received for the transportation by it of such oils from Cincinnati or from Louisville, to points reached by its lines of railroad in States other than Ohio and Kentucky, a greater compensation in the aggregate for a shorter than a longer distance on the same line in the same direction, where the shorter was included within the longer distance, and whose transportation being under substantially the same or similar circumstances and conditions.

"(2) Defendant admits that the charges made by it for shipments of oil from Cincinnati and from Louisville to the various points set out in complainant's bill under this charge, and the distance to each of said points from Cincinnati and Louisville, respectively, is as given by complainant in its first and second specifications under the fourth charge in his bill, with the exception that the rate from Cincinnati to New Orleans should be 34 cents per 100 pounds and to Mobile the same, and the distance from Louisville to Mobile is 670 miles, and the rates should be from Louisville to New Orleans 30 cents per 100 pounds, to Birmingham 45 $\frac{7}{10}$, and to Mobile 30 cents, but defendant says that said respective shipments to said several points were made under the very dissimilar circumstances and conditions as aforesaid, justifying and authorizing, as it believes, the different rates charged to the different places as aforesaid.

"(3) Defendant denies that any of the alleged discriminations against complainant, or the alleged unreasonably high and unjust charges against him set out in his bill of complaint, have had any effect or were designed to affect or to give to said Standard Oil Company a monopoly of the traffic in such oils at the points or any points reached by its lines of railroad, or to exclude complainant's products from nearly all or any of aforesaid points, and it denies that such alleged discriminations or charges, or both, have been made by defendant at the dictation of the Standard Oil Company, and it denies that by reason of such alleged discriminations or such alleged unjust and unreasonably high charges, or both, complainant has been injured in his business, or that thereby he has lost profits that he would otherwise have realized.

"Whether complainant in all other respects than for said transportation during all or any of the time since April 5, 1887, has had ample facilities or what facilities it has had for the transaction of a large or profitable business in the sale of said oils in said markets, or that but for said alleged unjust and unreasonable charges and alleged unjust discriminations complainant would have prosecuted such with profit to himself, defendant does not know and can not state from its belief or otherwise."

All the other petitions were filed simultaneously with the one above mentioned—that is to say, July 22, 1887.

The pleadings in the other cases it is deemed sufficient to present in brief synopsis.

The petition against the Saint Louis, Iron Mountain and Southern Railway charges that defendant violates the act to regulate commerce—

I. By making charges for services to be rendered in the transportation of petroleum oils from Saint Louis, Mo., to points on its line in the State of Arkansas which in themselves are unreasonably high.

II. By having, ever since April 5, 1887, charged complainant for services to be rendered by the defendant in the transportation of such oils for complainant from Saint Louis, Mo., to points in other States a greater compensation than it has charged the Waters-Pierce Oil Company of Missouri for like and contemporaneous services.

III. By having, since April 5, 1887, in its charges for the transportation of such oils, uniformly given undue and unreasonable preferences and advantages to said Waters-Pierce Oil Company of Missouri, and subjected complainant to undue and unreasonable prejudice and disadvantage.

The answer of this defendant meets the charges with full and specific denial.

In the case against the Mobile and Ohio Railroad Company the issue was so far narrowed by a stipulation of the parties hereinafter given as to render unnecessary any statement of the pleadings in this place.

In the case against the Cincinnati, New Orleans and Texas Pacific Railway Company the charges are that defendant has violated the provisions of the act to regulate commerce—

I. By making charges for services to be rendered in the transportation of petroleum oil from Cincinnati, Ohio, to points on its road in other States than Ohio which in themselves were unjust and unreasonably high.

II. By charging complainant for services to be rendered in the transportation of petroleum oil a greater compensation than it charged the Standard Oil Company of Kentucky for like and contemporaneous services.

III. By having in its rates charged for services rendered and to be rendered for the transportation of said oils for complainant and said Standard Oil Company of Kentucky, uniformly made and given undue and unreasonable preferences and advantages to said

Standard Oil Company, and subjected complainant to undue and unreasonable prejudice and disadvantage.

The answer meets the charges with a full and specific denial.

The petition against the Cincinnati, New Orleans and Texas Pacific Railway Company, joined with the Alabama Great Southern Railroad Company, charges a violation of the said act to regulate commerce—

I. By making charges for services to be rendered in the transportation of petroleum oil in themselves unjust and unreasonably high.

II. By having in the rates charged for services rendered and to be rendered in the transportation of petroleum oil for complainant and the Standard Oil Company of Kentucky, respectively, uniformly made and given undue and unreasonable preference and advantage to said Standard Oil Company, and subjected complainant to undue and unreasonable prejudice and disadvantage.

III. By having charged for the transportation of petroleum oil from Cincinnati to points reached by defendants' roads a greater compensation in the aggregate for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance, and the transportation being under substantially the same circumstances and conditions.

Defendants meet the first and second charges by denial, and they also deny that since the expiration of the order of relief made on their behalf on the 19th of April, 1887, they have made the greater charge for the shorter haul of the same property in the same direction, the shorter being included in the greater distance.

The petition against the Mississippi and Tennessee Railroad Company charges violation of the act to regulate commerce by making charges for the transportation of petroleum oils from Memphis, Tenn., to Grenada, Miss., which are in themselves unreasonably high.

The answer justifies the charges.

The petition against the Newport News and Mississippi Valley Company and the Louisville, New Orleans and Texas Railway Company charges violation of the act to regulate commerce—

I. In making charges for services rendered and to be rendered by defendants in the transportation of petroleum oils from Louisville, Ky., to Vicksburg, New Orleans, and other points which in themselves are unjust and unreasonably high.

II. By having uniformly since April 5, 1887, made and given undue and unreasonable preference and advantage to the Standard Oil Company of Kentucky, and subjected complainant to undue and unreasonable preference and disadvantage.

The defendants answer separately with specific denial.

The petition against the Newport News and Mississippi Valley Company and the Illinois Central Railroad Company charges a violation of the act to regulate commerce—

I. By making charges for services rendered and to be rendered by defendants in the transportation of petroleum oil from Louisville, Ky., and points on their lines in other States which were in themselves unjust and unreasonably high.

II. By having in the rates charged by them for services rendered and to be rendered for complainant and for the Standard Oil Company of Kentucky, uniformly made and given undue and unreasonable preference and advantage to said Standard Oil Company, and subjected the complainant to undue and unreasonable prejudice and disadvantage.

The charges are fully met and denied by the answers.

The petition against the Illinois Central Railroad Company charges a violation of said act to regulate commerce—

I. By making charges for services to be rendered in the transportation of petroleum oils from Cairo, in the State of Illinois, to points on its line of railroad in other States which were in themselves unjust and unreasonably high.

II. By having, since July 9, 1887, charged and received for the transportation of petroleum oils from Cairo, Ill., to points reached by defendant's line of railroad in other States a greater compensation in the aggregate for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance, and the transportation being under substantially the same circumstances and conditions.

The answer denies the first charge, and denies that the greater charges made for shorter than for longer hauls over the same line in the same direction are made under substantially similar circumstances and conditions.

Such were the issues made in the several cases.

The testimony upon which the cases have been submitted was taken in the main on oral examination of witnesses at the public sessions of the commission, and the fullest opportunity was given for bringing out all the facts. The officers of the defendant companies connected with the freight departments of their roads, respectively, were examined, and the workings of the roads, so far as concerns this particular article of traffic,

were fully gone into, with the purpose on the part of the commission to ascertain, if possible, not only whether any of the defendants had been guilty of unlawful discrimination against the complainant in the particulars charged, but also whether the general course of the defendants in respect to the transportation of oil was relatively fair and just as between different shippers, and also as between the defendants and the general public.

The case of two of the defendants was, however, so different as to make them stand altogether apart from the main contest which was made by the others and to which the evidence was directed. It will, therefore, be most convenient to say, in respect to them in this place all that we think there is occasion to say at this time, and afterwards to dispose of the others together.

In the case of the Mobile and Ohio Railroad Company counsel for the respective parties have signed and filed the following paper:

"It is hereby understood and agreed by and between George Rice, complainant, and the Mobile and Ohio Railroad Company, defendant, in the above-entitled cause, that the complainant makes no objection to the rates of the defendant for transporting coal oil over its line of railroad, as specified and shown in the third paragraph of the answer of the defendant to the petition of the complainant, except that said specification of rates shows that the defendant charges less for the transportation of oil from Cairo, Ill., to Mobile, Ala., than it does to points between Mobile, Ala., and Cairo, Ill.

"It is further understood and agreed that the defendant admits that its rates for the transportation of oil over its lines from Cairo, Ill., to Mobile, Ala., are less than the rate for like transportation of oil from Cairo, Ill., to points between Cairo, Ill., and Mobile, Ala.

"It is further understood and agreed that the defendant claims that the rate for the transportation of coal oil to Mobile, Ala., is fixed by water competition in connection with the short rail haul from New Orleans, La.

"It is further understood and agreed that the defendant claims that it is authorized to make the less charge for transporting oil in cases like Mobile, Ala., by the terms of the provisions of the fourth section of the interstate-commerce act."

The question which this paper undertakes to submit to our decision concerns other carriers and their customers quite as much as it does these parties, and a decision upon it would be far-reaching in its consequences. This fact of itself would be ample reason why we should proceed cautiously in any consideration we should give it and why we should require from a party raising it a very full presentation of such facts as would have legitimate bearing upon it.

A full presentation was not made on the hearing; the matter received very little attention, and the facts were very imperfectly brought out. We could not intelligently dispose of the question on the facts now in proof, and it would be unjust to parties not now before us to make any attempt to do so. Under the circumstances, therefore, we shall make no order in this case, leaving the parties to bring the subject to our attention hereafter as they may think they have occasion. This disposition of the case for the time-being decides nothing and concludes no one.

What is said on this subject is equally applicable to each of the other causes in which a violation of the long-and-short-haul rule of the fourth section of the act was charged. In none of the cases was special attention given to this feature of the controversy on the hearing, or any such examination of the facts gone into as would assist the Commission to safe judgments. Other charges were contested sharply and persistently, but this particular charge was scarcely noticed. Under such circumstances, if we were to pass judgment upon it, it would be necessary to institute further inquiries and make investigations on our own behalf; and this we think uncalled for in this controversy at this time. If a decision upon it is deemed important it may be assumed the parties, when it suits their convenience, will renew the subject and present the considerations which bear upon it more fully.

The other of the two cases mentioned is that of the Mississippi and Tennessee Railroad Company, in which the only matter put in issue was whether the rates charged upon barrel oil from Memphis, Tenn., to Grenada, Miss., are reasonable. The shipments made over defendant's road are very few, and have been mostly made by others than complainant. It does not appear that others are complaining. Upon the question of reasonableness the case is almost entirely without proof. Complainant relies upon the three facts that the rates are higher than generally prevail elsewhere, that they were formerly lower on this road, and that the defendant now carries the same commodity to points beyond Grenada at lower rates. The first two grounds of objection are not very conclusive. It is probable that defendant could not support a useful existence if it were compelled to measure its charges by those made by carriers whose lines command a heavier and more steady business. It is also not unlikely that this defendant at times has made rates it could not abide by permanently without bank-

ruptcy. Most of the railroad companies of the country at some time or other have done so.

The third ground presents the same question, which, in the case of the Mobile and Ohio Railroad Company, we declined to decide without some showing to enable us to see how the decision would affect the railroad business of the section. We are absolutely without any such showing in this case, and we think it entirely reasonable and proper, therefore, to decline to make any order.

We now proceed to dispose of the cases of the other defendants, and in doing so it is to be understood that when the term defendants is made use of it applies to those only whose cases are under consideration, and does not include the Mobile and Ohio and the Mississippi and Tennessee Railroad Companies or either of them.

From the evidence it appears—and we find the fact to be—that there are two general methods for the transportation of petroleum oil and its products by rail, the one being in barrels holding an average of 50 gallons, and the other being in large iron tanks which are permanently fixed upon flat cars so as to constitute a part of the cars themselves. Some oil is carried in cans also, but that method does not come in question in these cases. The tanks vary greatly in size, some holding not more than 3,000 gallons, or 60 barrels, while others hold twice that quantity. The refined oil, which is the kind that constitutes the subject of controversy in these cases, weighs 6½ pounds to the gallon; the barrels in which the oil is shipped weigh about 75 pounds each, and a barrel with its contents about 400 pounds. The tank-cars which are sent into the territory in which the defendants operate are all either owned by the shippers themselves or are procured by them from some other source than the railroad companies, the latter never having supplied themselves with rolling stock for the purposes of this traffic. The Louisville and Nashville Railroad Company and the Cincinnati, New Orleans and Texas Pacific Railway Company are severally owners of the trucks and bodies of a few tank-cars, but even of these the tanks are owned by the Standard Oil Company of Kentucky, so that they are not offered for use to shippers in general.

In the rate-sheets which are published by the defendant, rates are named for the transportation of oil in barrels and oil in tanks; the latter, however, not to all points, but in general only to the points at which preparations have been made by a shipper to receive and store the oil shipped by that method. In some cases rates are named to points where no such preparations are made, the reason for which, if there is any, has not been very clearly explained to us. Generally the rate when the transportation is in tanks is by the car, but where it is in barrels it is by the barrel, in car-load lots, or by the hundred pounds. None of the rate-sheets of the defendant which were put in evidence notified the shipper that the carrier was not prepared to furnish rolling-stock for transporting the oil in either mode—a reasonable inference from the rate-sheet not otherwise explained would be that it was. Thus the Newport News and Mississippi Valley Company, by tariff D 377, gives rates as follows: Louisville, Ky., to Memphis, Tenn., coal oil, car-load, in barrels, 45 cents; coal oil in tanks, per tank-car, \$25.

If, however, the owner of oil at Louisville should desire to send a consignment of oil in tanks to Memphis, and should apply to have cars furnished him for the purpose, he would be told at once that the company did not supply tank-cars to its customers: that if they desired to avail themselves of that method of transportation they must not only pay the rate prescribed, but they must also furnish the company with the cars. This is obviously a most important qualification of the rate itself; and if the shipper must furnish the car at his own expense, the actual cost to him of the transportation will very much exceed the published rate. This, however, does not seem to be generally expected; on the contrary, there seems to be a general, though not a universal understanding among railroad companies in the Southwest, including the defendants, that the party furnishing a tank-car shall be paid trackage for its use at the rate customary among railroad companies, namely, three-fourths of a cent a mile going and returning, with the privilege on the part of the railroad company of loading the car with return freight when any is offered or is procurable.

One difficulty with this understanding is that it does not appear in the rate sheets. The sixth section of the act to regulate commerce provides that "every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its railroad, as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force upon such railroad, and shall also state separately the terminal charges, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates and fares and charges."

The purpose of this provision is very manifest and is well understood. It intends that every person desiring to avail himself of the facilities afforded by the railroads of

the country should be enabled to tell for himself, without being under the necessity of calling in the aid of any railroad agent or other person, what charges he must pay for the transportation of his person or his property, and also have in the published rate sheets an accurate test of the correctness of any exaction. The rate sheets introduced by the defendants in these cases can hardly be said to give information. They omit to give a rule, regulation, or understanding which has a very important bearing on the rates, and they wholly omit to notify the owner of oil that the carriers making them do not furnish him with cars for one of the methods of transportation which in terms they offer to him. The rate sheets, therefore, require to be supplemented by other information, and it is from this fact that some part of the controversy between these parties has arisen.

It was said on the argument that the railroad companies were under obligation to furnish tanks no more than they were to furnish barrels; that tanks and barrels were only different kinds of caskets for holding the property which was to be conveyed, and it was matter of course that the shipper should furnish them for himself. This might be quite true if the tank, like the barrel, was received from the consignor and taken for delivery to the consignee, as packages usually are; but it is not. It is, on the other hand, a part of the car itself, as much as are the sides to an ordinary box car; it is provided only to hold the oil for transportation, while the barrel holds it both before and after shipment, as an article of merchandise, and is bought and sold with it. The shipper in barrels, it is quite true, is expected to deliver his merchandise in that form of package, and the rate bill informs him what he must pay upon it. The party proposing to ship in tanks does not receive from the rate sheets equivalent information; and if outside the rate sheets he learns that he must furnish the tank cars, he is still unapprised upon what terms this is to be done, and must seek the information from the officers or agents of the carrier.

But when he seeks this information he learns immediately that the matter is or may be the subject of private negotiation, and perhaps of different terms in different cases. Thus the evils at which this provision of the statute was aimed make their appearance immediately. He is not informed by the rate sheets what he will be charged for the service to be rendered him, and when he seeks the information he finds the terms are to be the subject of bargain; but a bargain implies a difference in terms in different cases. We are not to be understood as finding or intimating an opinion that all of these defendants have made different terms in different cases. The evidence as to the most of them has no tendency to establish against them such a charge. We say only that as they have not by their rate sheets bound themselves to any particular terms, the precise terms must be fixed in some other way. If any one carrier has a definite and uniform practice on the subject it will not be chargeable with discrimination while the practice is followed; but uniformity of practice, while it shows correct motives, does not excuse a failure to give full information to the public in the rate sheets.

In the case of the Louisville and Nashville Railroad Company, however, it clearly appears that the private arrangements made for the use of cars have been different in the cases of different shippers, and that it has no definite rule on the subject. The general freight agent of that road, being on the stand, was asked:

"What do you charge for bringing these empty tank-cars back from the South? What would you charge Mr. Rice?"

Answer. "Not less than a cent and a half; we might charge 3 cents. If he wished to make arrangements with us now we should probably charge a cent and a half, or might charge him 3 cents. It would depend on the section of the country to which he wanted to ship."

A little further on he is asked by a member of the Commission:

"When these tank-cars go South do you take the risk of getting a load back, or do you perform your contract when you take the oil to the place of destination, leaving the car there? I want to know what your contract covers. You advertise to take the oil for so much. Does that mean simply delivering the oil at the place of destination, leaving the other party to get the car back?"

Answer. "Our rate on oil applies only to the shipment of that oil, but we are influenced in making that rate by the prospect of return loads."

"Q. If you get no return load is the expense of hauling the empty car back, if you choose to charge it, charged to the shipper?—A. If there were not generally return loads we would then insist upon getting pay for hauling the car back."

"Q. You charge so much for hauling oil from Louisville to Montgomery, and when you deliver it there that completes your contract and you leave the car there if you please?—A. Yes, sir."

"Q. And are not under obligation to bring the car back?—A. No, sir."

"Q. And then the bringing the car back is matter of contract between you and the shipper?—A. Yes; but if you will let me explain—a great portion of the return loads

for these cars is furnished by the shippers of coal oil. The shipments of cotton-seed oil are not furnished by the shippers of coal oil, but the cars that carry down the petroleum oil by arrangement with parties down there have the tanks sent back with return loads of cotton-seed oil. I know of one case in which a firm in Louisville receiving cotton-seed oil made an arrangement with the owners of forty-six cars to return them filled with cotton-seed oil."

"Q. Suppose a man comes to you to make a contract with you for transporting oil to Mobile or Montgomery, is your contract performed when you reach the destination, and may you leave the car there?—A. Yes, we have then performed our contract and may leave the car there."

"Q. And in respect to bringing that car back, it would be matter of arrangement or contract between you and him?—A. Yes, sir; a separate transaction."

"Q. As a matter of fact, whenever they can not get a return load you do haul them back free, do you not?—A. We have hauled a few free.

"Q. Have you not hauled all that did not contain a return load free?—A. We have hauled free all that did come back empty for some time.

"Q. And in every instance where there is no return load you haul back the empty car free?—A. Yes; but those are a small percentage."

There is also evidence that two at least of the other defendants are without a uniform practice on this subject, and the general freight agent of another is not able to say how it is with his company; but whether the other defendants do or do not observe uniformity in their dealings with this subject, it is plain that, in failing to give full information by publication, abundant opportunity for discrimination is left to agents, and it will be surprising if these are not sometimes availed of, when, perhaps, the agents suppose they are acting entirely within the scope of their general authority to make contracts.

We are now to see whether these defendants or any of them have been guilty of the unjust discrimination and of the making of excessive rates which are charged against them.

The unjust discrimination in the case of transportation east of the Mississippi is supposed to have had for its object the giving of an advantage to the Standard Oil Company of Kentucky, and that in the case of transportation west of the Mississippi to have been designed to favor the Waters-Pierce Oil Company, of Saint Louis. Both these companies are spoken of as Standard Oil Companies. It was testified before us that a controlling interest in each of them is held by the Standard Oil Trust. This evidence was given by one of the trustees of the trust, who also testified that the capital represented by the trust was about \$90,000,000. Another witness, who assumed to have some knowledge on the subject, estimated the actual cash value of this capital at one hundred and fifty millions. Whether the one estimate or the other is the correct one, this is an immense property to be under the control of eight trustees, as this appears to be. It represents a great number of prosperous establishments in different parts of the country, and it gives an immense power which is capable of being so employed as to put all competitors at a great and perhaps ruinous disadvantage. It is of the utmost importance, therefore, that the several railroad companies which are patronized by them should not only abstain from granting to those who wield this power any special and peculiar privileges, but should as far as possible avoid giving cause for suspicion that they are so doing.

It is but just to the defendants in these cases to say that no evidence was given tending to show that they had favored the Standard Oil Companies specially as distinguished from other companies, firms, or individuals who shipped their oil in tank-cars; for the discriminations which appeared on the hearing, and which were relied upon as establishing the charges made in the complaints, operated not in favor of the Standard Oil Companies alone, but of all shippers in tanks. The Standard Oil Companies, however, were shown to be much the largest shippers of oil in this mode, and therefore would be most largely benefited by discriminations against the shippers in barrels.

In making proof of discriminations charged, reliance was had in part on the great differences shown by the published rate-sheets between the charges made for the transportation in tanks and in barrels, the latter being almost invariably very much higher. This it was claimed was in itself illegal, not being justified by any difference in cost or by other facts or circumstances. The fact that a uniform charge was made for the transportation of tank-cars, regardless of capacity, was also relied upon as proof tending in the same direction.

In turning our attention to this question of discrimination we are at the outset confronted with a jurisdictional objection which is interposed on behalf of one of the defendants, and which, if valid on its behalf, is equally a protection to all the others, even though they do not themselves advance it in argument. The objection is one which goes to the lawful authority of the commission to make inquiry into the relative equality

and justice of the rates charged for the transportation of oil in barrels and oil in tanks, respectively. The point is so important that it is deemed proper to state in the exact words of counsel.

"This case," it is said, "involves the question whether the act to regulate commerce confers upon this commission jurisdiction to inquire into the relative reasonableness of rates which a common carrier may have adopted in good faith for transporting the same traffic in different modes.

"The question assumes that the carrier, in adopting the different modes of transportation and in fixing the different rates therefor, has not acted capriciously or maliciously, but in good faith, according to its best judgment, with a view to subserve what it regards its best interests.

"The question also assumes that the carrier offers the different modes of transportation, with their corresponding rates, equally and impartially to all shippers alike; that it is possible for the class of persons usually engaged in that particular traffic to conform to either of the modes of transportation, and that the highest rate charged for either mode of transportation is 'reasonable in and of itself.'

"By the expression 'reasonable in and of itself' is meant that the highest rate charged by the carrier is no more than a reasonable compensation for transporting the traffic in the mode for which that rate is charged, and that the only ground for claiming it to be unreasonable is that it is higher than another rate which is charged by the same carrier for transporting the same traffic at the same time between the same points, but by a different mode of transportation.

"It will be conceded that this commission was created by the act of Congress 'to regulate commerce;' that it has no jurisdiction except such as is conferred by that act, and that its jurisdiction, so far as this question is concerned, must be found in the first, second, or third sections of said act, or that the jurisdiction does not exist at all.

"The first section enacts that 'all charges made for any service * * * shall be reasonable and just.'

"This section does no more than announce a well-settled rule of the common law; but as the United States, regarded as a Government distinct from the States, had no common law of its own, it required an act of Congress to adopt the common-law principle into the law of the Union regulating interstate commerce.

"But while the common law did require that all the charges of a common carrier should be 'reasonable,' it did not require that they should be equal, even where the service was the same, nor that they should be proportioned to the service where the service differed in different cases.

"At common law, if the rate charged A was reasonable in and of itself he could not complain, even though the carrier might render precisely the same service to B free of any charge whatever; and it was to remedy this defect of the common law that the English Parliament passed the act of 8 and 9 Vict., chapter 20, known as the railway clauses consolidation act of 1845.

"The word 'reasonable,' as used in the first section of the 'act to regulate commerce,' is used in the same sense in which it was used at common law, namely, reasonable 'in and of itself,' without regard to whether a low rate was or was not charged for the same or a similar service.

"I concede that the commission may, under the first section, determine whether the rate upon coal oil in barrels is reasonable or right 'in and of itself,' viz, whether it is a fair compensation for that particular mode of carrying coal oil.

"But I deny that the commission can, under the first section, lawfully declare the rate upon barrels to be unreasonable merely because a lower rate is charged upon tanks, even though the commission should find that the difference in rates is greater than the difference in the cost, etc., of the two modes of transportation.

"I admit that where different rates are charged, the commission may, under the second section of the act, determine whether the rates are charged for services which are 'like and contemporaneous,' and whether they are rendered under substantially similar circumstances and conditions, but I deny that the commission has any power under the first section to declare that a rate is not reasonable merely because it is higher than another rate charged by the same carrier for a different service, even though both services may be rendered under substantially similar circumstances and conditions.

"I also admit that where different rates are charged, the commission may, under the third section, determine whether such difference in rates 'makes or gives any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic;' but I deny that the commission has any power, under the first section, to declare that a rate open to all persons is not reasonable merely because it gives an advantage to the person who accepts it over another person who voluntarily selects a different mode of transportation for which a higher rate is charged.

"A mere difference of rates may in many cases constitute a violation of sections 2 and 3, but it can never constitute a violation of section 1 of the act.

"It matters not how great the difference between two rates may be, it can never amount to a violation of section 1 if the higher rate is 'in and of itself reasonable and just'—i. e., only a fair compensation for the service for which that particular rate is charged.

"The fact that sections 2 and 3 of the act give to the commission ample powers in regard to difference in rates is strongly persuasive that section 1 was intended to be confined to the reasonableness of rates."

In support of these views cases are cited, and particularly *Nicholson v. Great Western Railroad Company*, 1 Nev. & Mac., 148, and *Great Western Railroad Company v. McCarthy*, 29 Amer. and Eng. R. R. Cas., 87.

The question thus presented is one of considerable importance, and it is forcibly and ingeniously argued in an elaborate brief. It is seen that it assumes at the outset "that the different modes of transportation with the corresponding rates are offered equally and impartially to all shippers alike; that it is possible for the class of persons usually engaged in that particular traffic to conform to either of the modes of transportation, and that the highest rate charged for either mode of transportation is reasonable in and of itself."

This assumption makes the resort to the one method of transportation rather than the other a matter purely of voluntary choice on the part of the shipper, and if the argument is correct in further assuming that the two methods are equally open to all who usually engage in the business, it may justly be urged with very great force that the party resorting to the one is by the choice itself precluded from raising any question of relative reasonableness by comparing the rates he chose with the lesser rates he might have chosen, but did not. It is conceded in the statement of the question that no two kinds of traffic are in question, but only one kind of traffic conducted in different ways. The merchandise in question is a single or identical article, and the purpose of the transportation is to deliver the commodity to consignees whose competition in the sale of it will be wholly unaffected by the method in which it has been brought to them. Whether it has come in barrels or in tanks is immaterial when the owner offers it in market; he can place no higher price upon it in the one case than the other. It is therefore obvious that if a heavier burden is laid upon one method of transportation than is imposed upon the other, it must, under ordinary circumstances, be impossible for those who adopt the first method to succeed in the competition when they meet the others in the same markets. Their interest, therefore, in the charges which are made to their competitors is obvious. Unreasonably low charges to their competitors would be as fatal to their success as unreasonably high charges to themselves.

The most important question that arises upon the assumptions made as the basis for this argument is, whether there are in fact two different modes of transportation which are offered, with their corresponding rates, equally and impartially to all shippers alike, and which it is possible for the class of persons usually engaged in the traffic freely to choose between. If no such offer is in fact made we have no occasion to follow the reasoning of the argument.

Unless we wholly misapprehend the real situation, when the rate sheets of these defendants are presented to the class of persons usually engaged in the traffic, the assumption that two different modes of transportation are offered to them equally and impartially is baseless. No one of these defendants offers two modes of transportation in the same sense in which it offers its facilities for transportation to shippers of other commodities. Each of them supplies rolling stock for one method only, and that one is shown to be the method on which, by their rate sheets, the heaviest burdens are imposed. No such choice is given to adopt the other mode as would be implied from the language used in stating the question; on the contrary, an applicant for that method of transportation would be told he must furnish his own rolling stock; and this means very much more than might seem to be indicated by this statement; it means, if he would make his business a success, that he shall supply himself with a very considerable number of cars, costing perhaps \$700 each, and that he shall also have stationary tanks at the points to which his shipments are to be made. The cost of the necessary terminal facilities which he must supply for himself we have no means from the evidence in these cases of comparing with the cost of making provision for the storage of barrels by one who adopts that method. It was testified that the terminal facilities of the Standard Oil Company of Kentucky at Selma, Ala., cost about \$2,000, and at New Orleans about \$20,000. The vice-president of the Waters-Pierce Oil Company estimates the average cost of putting up stationary tanks to accommodate tank shipments, including side tracks, etc., to be from \$1,000 to \$50,000, according to the requirements of the station, except at Saint Louis, where he estimates it at \$250,000. It is obvious, we think, from the facts stated, that instead of the defendants offering two methods of transportation

which are open to the acceptance of all, they offer only one which is so open. The other is offered on such terms that it can by possibility be accepted only by parties who can control a considerable capital, and who will supply for themselves an important part of the means of transportation, and also supply terminal facilities. The man of small means who adopts the method of transportation in barrels can not be said to do so of choice when the failure of the carrier to supply for the other the customary means of transportation compels him to do so.

It was said on the argument that this compulsion was not the fault of the carriers, since it resulted from the man's own circumstances; and it was very justly remarked that it is not the business of carriers to relieve against inequalities in the pecuniary condition of those who give them business. This is perfectly true. If one man can pay the extra charge which is made for being transported in a palace car, and chooses to do so, the fact constitutes no ground for complaint on the part of another man who, by reason of want of means to pay for the like accommodation, is compelled to ride in the common car. When the carrier provides accommodations for all and offers them impartially, he stands blameless as to those whose circumstances preclude acceptance; but that is not the case we have before us. The carriers do not provide accommodations for the two methods of transportation; they provide them for one method only, and in doing so they fall short of what, in respect to all other kinds of traffic, is practically the universal custom. It is from this fact that the oppression complained of in these cases springs. The carriers offer no choice to their customers; they fail to provide for the general use of all who may desire it the rolling stock for transporting, in the way which they say is most profitable to themselves, this very large traffic, but they give to the dealers who will perform this duty for them rates so favorable as to put those who adopt the only method the carriers provide at such disadvantage as to preclude successful competition.

It does not seem to us either just or plausible to say under such circumstances that the person whose oil is carried in barrels has voluntarily chosen that method, and has no concern with the charges imposed on his competitor who adopted the other. He is, on the contrary, vitally concerned with those charges, and if his own are not to be gauged in some degree by them, he may be ruined in his business without redress, even though the charges he pays, when considered by themselves, may seem not unreasonable.

But it is further seen that the whole argument on this branch of the case is rested by counsel on the proposition that the charges made on transportation of oil in barrels are reasonable in and of themselves; if they are found not to be, the jurisdictional difficulty which is suggested need not further occupy our attention.

It is to be regretted that we are not more clearly shown in the argument presented on this point how we may determine when rates are and when they are not in and of themselves reasonable. When a limitation of power depends upon facts there ought to be no question what facts are to be considered, since otherwise the limitation is likely to be the subject of continual dispute, and may possibly be exceeded, even when the intention is to observe it with due care, and especially when such a limitation depends upon a pecuniary charge being reasonable or the reverse, the tests of what is reasonable ought to be such as not only can be easily applied, but in themselves be open to no controversy.

Counsel has defined the expression "reasonable in and of itself" to mean "a reasonable compensation for transporting the traffic in the mode for which the rate is charged;" but the definition throws little or no light upon the question how this reasonable compensation is to be measured and determined.

It is sometimes contended, though not by the carriers themselves, that we may measure the reasonableness of charges by the cost of transportation. These defendants will not contend that that is a proper test, for their whole practice is against measuring their charges by the cost. It may cost no more to carry a box of silk weighing 100 pounds than a bale of refuse rags of like weight, but the charge will perhaps be several times as great, and the carrier justifies the discrimination by showing that equal rates on both would put transportation of the less valuable article out of the question. Like discriminations are made everywhere; property is classified with a purpose, among other things, to make the most valuable kinds pay most largely for the service performed. This is a wise if not a necessary policy, and as the railroads adopt it universally, they are fairly estopped from claiming that from cost alone it can be determined whether charges are in and of themselves reasonable.

A better test, it is sometimes said, may be found in the value of the service to the owner of the property carried. Some articles must be carried at low rates because the traffic will bear no higher, and therefore the low rates are all the service is worth. Other articles, though it may cost no more to carry them, may justly be charged much higher rates. The effect of transportation upon market value is taken into account by carriers in making rates, and it is insisted on their behalf that this is neither unreasonable nor unjust; but it is very obvious that if rates as to their reasonableness are to be measured by

the standard of what the service is worth to the owner of the property, it is impossible, when considering the value of the service in transporting a particular kind of property by one method, to leave out of view the charges imposed for transporting the like property by another method, which for any reason is limited to a part only of the carrier's customers. Whether the service to the owner in carrying by one method shall be worth much, or be of no value whatever, may depend altogether on the charges which are made to others for carrying by the other method.

But the proposition that we may determine absolutely what rates are in and of themselves reasonable on a consideration exclusively of the particular traffic by itself is antagonistic to the whole railroad practice of the country, and would not for a moment be accepted and acted upon by any committee of rate-makers. Rates are never made in that way; but instead thereof property is classified, and the whole field is surveyed with a view to the establishment of such charges as shall be relatively proper and just, as near as circumstances will admit of their being made so. There is not a railroad company in the country with a business of any considerable magnitude that could justify each of its rates by itself without taking its general traffic into account, or without its being allowed to show how excessive competition at one point or in one traffic has forced higher rates elsewhere than might otherwise be reasonable, or how, on the other hand, good returns from one traffic, which the traffic can bear without being oppressed, permit of very low rates to some other traffic which otherwise might be unprofitable. Thus the railroad practice appears to be to treat those rates as reasonable in and of themselves which, on a consideration of the whole field of operations, it is seen that the carrier can afford to accept, and which at the same time the owner of the property can afford to pay, because they are not in excess of what the service is worth to him; but in fixing upon rates it is especially important, if not absolutely necessary, to have something like uniformity in the rates upon articles which are of like kind and value and which supply the same demand, since otherwise those which are made to bear the heavier rates would be driven out of the market.

This being the method whereby reasonable rates are customarily determined, we have no occasion to discuss the soundness of the position taken by counsel that if a rate is reasonable in and of itself the Commission can not require it to be changed. We do not question the proposition of counsel that Congress has not conferred upon the Commission the authority to force a change of reasonable rates. By the act to regulate commerce the Federal Legislature intended to be just to the carriers as well as to do justice to the general public; and we agree that it has not authorized their rates to be changed against their will when in themselves the rates are just and reasonable. If, therefore, it shall be found that the charges made by these defendants for the transportation of oil in barrels are in themselves just and reasonable, no order will be made by this Commission for their alteration; but in determining their reasonableness we shall consider ourselves not only at liberty but absolutely required to keep in view the disparity which is shown to exist between them and the rates which the same companies charge upon the same article of merchandise when they receive and transport it in the cars furnished by shippers themselves. That disparity has an inevitable and very important bearing upon the question of reasonableness; *prima facie* it is unjust, because it is oppressive, and the defendants are fairly called upon to exhibit good reasons for it.

This view of the case also renders it unnecessary for us, in considering the evidence adduced in support of the complaints, to distinguish as between that which is offered to prove excessive rates on barrel shipments and that which is given to show unjust discrimination. Whatever evidence tends to show that the rates on barrel shipments are unreasonable because too greatly in excess of the charges made on tank shipments, will also in like degree tend to show that in making rates on barrel and tank shipments, respectively, the defendants were guilty of unjust discrimination. This is self-evident.

On the hearing the defendants entered upon a justification of their rates, and it was planted by them on several distinct grounds. These we may summarize as follows:

I. Those who have their property sent in tanks furnish the rolling stock for the purpose, and save the carriers the necessity and the expense of supplying it.

II. This method of transportation exposes the carrier to less risks of losses by fire and of damage to other property transported by it.

III. It is more profitable to the carrier, because the probability of a return load is greater, and also because the load of a car may be greater, and the carrier neither loads nor unloads the property nor furnishes storeroom for it.

Each of these grounds of justification deserves and must receive some attention at our hands.

I. The fact that the owner supplies the rolling stock when his oil is shipped in tanks in our opinion is entitled to little weight when rates are under consideration. It is properly the business of railroad companies to supply to their customers suitable vehicles of transportation (*Railroad Company vs. Pratt*, 22 Wall., 123, 133) and then to offer their

use to everybody impartially. If the varieties of traffic are such and their requirements of rolling stock so numerous and diversified that this becomes impracticable or burdensome, so that the aid of their customers becomes essential or convenient, the supply obtained by their assistance can not with any justice be utilized by the carrier in such manner as to establish discriminations which would otherwise be inadmissible. The carrier has no right to hire rolling stock and then allow it to be used exclusively by one class of persons on such terms as will drive out of business those who are compelled to use its own rolling stock in a competitive traffic. This, however, is precisely what takes place in this traffic if the rates for the transportation in barrels are considerably in excess of those which are charged for the transportation in tanks. The tank-cars which are furnished to the carrier by shippers, whether the use is paid for or not, ought properly to be held for the use of all; but if this is found impracticable, it is very certain and very obvious that proprietorship of the car for the use of which the carrier pays, as it generally does, can fairly entitle the owner to no special consideration in the making of rates. He has an advantage, arising from his ownership, in being able to control the use, but that circumstance can be no reason for extending to him exceptional consideration which will make the advantage specially oppressive to competitors. It is, on the other hand, a very forcible reason why the carrier should see to it that its patrons who are forced to make use of such facilities as it provides for them shall not find its own want of proper rolling stock made a ground of discrimination against them. On this point the misapprehension of the situation is very apparent in some of the arguments which have been made for the defense. The complainant, it is said, asks the railroad companies to relieve him from the consequences of his own lack of capital to carry on his business to the best advantage. He can not choose the best method, because that method requires a large outlay in capital. His competitor in business can choose it, and it is for that reason that complainant is driven out of the market. He must blame his want of capital, it is said, and not the railroad companies for his failure.

A statement of the situation differing a little from this will more nearly present the actual facts. The railroad company not having supplied itself with the necessary rolling stock to enable one branch of its traffic to be carried on in the way most advantageous to those who engage in it, suffers parties who have the capital which will enable them to supply the defect to put cars of their own upon the road, for the use of which it pays, and at the same time gives to such parties the exclusive use of what they supply, and also such preferential rates on the merchandise carried for them as will put successful competition quite out of the question. It is not the lack of capital to carry on the business that then proves fatal, but it is the lack of capital, in addition to what is needed in the business, to supply rolling stock to the railroad company for his use. It would be the height of injustice for the carrier to make such a lack a ground for discrimination in rates, and then to say that the party suffering from it has no reason for complaint since the rates which are named are offered to all. The offer is exclusive in fact, whatever it may be in terms or in theory.

If a carrier of passengers were to make a uniform rate of 3 cents a mile to all who rode in the cars it provided, but, being deficient in rolling stock, were to allow owners of private cars to fill them with passengers at 2 cents a mile and be paid for the use of the cars in addition, we should not expect any one to attempt a defense of the discrimination based upon the ground that the rates were equally open to all, and that if one, by reason of lack of capital to supply himself with a private car, was unable to take the benefit of the most favorable rate, he should blame his fortune for it, not the common carrier. The wrong in such a case would be as plain as it would be gross; but such a discrimination in the carriage of persons would be far less injurious than a similar discrimination in the transportation of property: the one would involve a small sum of money only; the other might be destructive to a business. We hold, therefore, that the fact that one consignor furnishes a car for hire to the railroad company for the transportation of his oil is no ground whatever for a discrimination in rates in his favor as against another consignor who must ship in the cars the carrier supplies. It may be a reason for limiting to himself the use of the car he furnishes, but the discrimination can not justly or lawfully go any further.

II. The fact that transportation in barrels exposes the carrier to more risks than does transportation in tanks seems to be most relied upon to support the discrimination made in rates, and it was very strongly urged on the argument. The risks are: *first*, of accidental fires in consequence of leakage from barrels; and, *second*, of injury to other property arising from its being affected by petroleum odors. Considerable evidence was given to show that leakage from barrels was constant and in warm weather very great, and that trains and warehouses were specially exposed to accidental fires in consequence. On the other hand, there was evidence that the risks are greatest when the oil is transported in tanks; the greatest risk being from collisions, which might break up and empty the tanks and expose the whole vicinity, while barrels might for the most part or alto-

gether escape breakage. Persons entitled to speak as experts differed very widely in their testimony on this point, but Mr. Brundred, the manager of the tank line which is operated on the Pennsylvania roads, and who testified to having kept careful statistics covering a considerable period of time, showed by these that the risks from either mode of transportation were small, but were least when the transportation was in barrels. Possibly his experience may have been somewhat exceptional; but we are not satisfied from the evidence that there is any such greater risk from fires when the oil is conveyed in barrels as can justify a difference in rates. The risk from injury to other property is something, but not serious. Oil in barrels is transported in cars which when not used for that purpose are employed in the transportation of live stock, lumber, iron ore, or other articles not subject to injury from the odors, and when taken in car-load lots is loaded and unloaded by the shipper elsewhere than in the company's warehouses. With proper care, therefore, injury to other property ought very seldom to happen.

III. The greater probability of finding return loads for the tanks is much relied on. The return loads are either turpentine or cotton-seed oil. The turpentine region is reached by some of the roads, but not by all; but on those same roads are lumber, iron, and other heavy articles to be transported in the direction opposite to that in which the oil is taken, and which would constitute very suitable loading for the cars in which oil in barrels is carried southward. It is a very pregnant fact as bearing on relative rates in this region that Mr. Virgil Powers, the Commissioner of the Southern Railway and Steamship Association, and Mr. Charles A. Sindall, the secretary, both of whom have had long experience in those or similar capacities, agree in opinion that oil in barrels ought to be transported as cheaply as the same quantity in tanks. This opinion would not have been given without good reason; and without doubt the probability of return loads for the tanks was taken into account. In the Southwest cotton-seed oil mills may or may not be found at the points to which oil in tanks is taken. If they are not, the tank must return empty or it must be sent elsewhere for a load. But we do not learn from any evidence given before us that the railroad company has any right, under its implied contract for the transportation of the petroleum oil, to send the tank car to any other point for a load when it does not find one at the place of delivery. If there is any such right it must arise from some special contract or arrangement; and if any such exists the terms and particular privileges given are not disclosed in these cases; but when thus sent elsewhere it may or may not be the case that there is any considerable advantage in it, such as would be derived from taking up a load at the point of delivery of the petroleum oil and putting it down where the oil was received. The advantage in the latter case would be very great; in the former it might be trifling; but in all cases where cotton-seed oil is the return loading the advantage would seem to be reduced to a minimum by the very low charge which is made for the transportation of that commodity. This charge, for some reason not satisfactorily explained to the commission, is made astonishingly low when compared with the charge made upon petroleum, although the cotton-seed oil is much the more valuable article. It is very manifest from the evidence that the cotton-seed oil traffic in itself is not one of much profit to these defendants.

The capacity of some of the tank cars is such that a larger quantity of oil can be taken by them than in such cars as barrels are conveyed in. This, of course, is favorable to the carrier, and enables him to carry more cheaply in proportion to quantity; but a considerable proportion of the tanks are not of this great size, and the load they carry does not exceed the ordinary car-load in barrels. Moreover, it has been shown that heretofore the great size of some of the tanks has been ignored by some of these defendants altogether, and they have made no distinction in charge between carrying sixty barrels in a tank and carrying twice that quantity. They may, therefore, be gainers instead of losers by the establishment of a rule which measures their compensation for the service rendered by the tonnage carried, whether it be in the one mode or in the other.

We are entirely satisfied that this ought to be the rule. Barrel shipments in car-load lots, loaded by the consignor and to be unloaded by the consignee elsewhere than in the carrier's warehouse, if subjected to higher rates, would be charged more than is either just or reasonable. We also think, and so find, that the great difference in rates shown in these cases to have been generally made as between barrel and tank shipments amounted to unjust discrimination as against the former. The rule should be to consider the tank a part of the car itself, and for the load carried in it the charge ought to be the same by the 100 pounds as is made on the transportation of barrels of oil in car-load lots in other cars. Even then the shipper in barrels is at some disadvantage, for he must pay freight on barrels as well as on oil; but this as between him and the carrier is not unjust.

We find, then, on a careful review of the testimony in this case and after full reflection, that no sufficient reason is shown to justify the defendants making a distinction in their charges as between the parties employing the two different modes of carriage. We hold that when transportation is in car-load lots the same charge by the 100 pounds

should be made upon all consignments from and to the same points. Particular routes might be named on which it would be just to allow the oil to be carried in tanks at a lower rate; but on other routes the transportation in barrels might be most likely to insure return loads. There neither is nor can be any rule on that subject, and the attempt to consider each road of a system and each several feeder by itself, and to discriminate for each according to the probabilities of return loads, would be far more perplexing than useful, and would breed many vexatious controversies. The roads constituting the Southern Railway and Steamship Association submitted the subject to three arbitrators in 1886, and the arbitrators, by an award made October 27, 1886, decided as follows:

"The board decides and awards that, taking effect November 1, 1886, coal-oil in barrels, in car-load quantities, be put in sixth class released, the same as coal-oil in tank-cars."

By this award both methods of transportation were to be put in respect to rates on the same footing for the whole system, the arbitrators apparently deeming it impracticable to make any difference from a consideration of the probabilities of return loads. We assent to this view, because we think the attempt to take these probabilities into account would not be likely to have beneficial results.

This ruling concerns a traffic in which one method of transportation has no other or different effect upon the value of the article carried than has the other. The oil when delivered is of no higher value because of having been conveyed in barrels, and the owner has in no respect been supplied with superior accommodations or facilities which can be made the basis for an additional charge against him. The additional charge heretofore made has necessarily been grounded on something besides additional benefit to the party subjected to it.

This ruling does not preclude such allowance for the use of tank-cars as is customary, provided it be reasonable; but on the contrary it assumes that such allowance will be made. But it should be made on some system, by some rule of uniformity, and the authority to make it must not, carelessly or otherwise, be made a means of discrimination.

It is now to be considered how far these parties severally are to be deemed guilty of unlawful discrimination in what they have done during the period covered by the complaints.

Upon this subject we have to say at the outset that in our opinion the mere fact that they have hitherto made a difference in rates as between the shipments in barrels and the shipments in tanks ought not of itself to be considered proof of unjust discrimination. There is room for great differences in opinion as to the relative rates which can justly and properly be charged, and a considerable difference might honestly be made in framing a rate sheet. There should be further proof than this mere difference to make out the unlawful discrimination as regards consignments made prior to the time of promulgating this opinion.

In the case of the Louisville and Nashville Railroad Company this additional proof is furnished in several ways.

One of the proofs is to be found in the making of the rate by the tank-car regardless of weight or quantity. When one tank holds twice as much as another there can be no valid excuse for this; it necessarily makes the rates excessively low to the shipper in large tanks and specially oppressive to the shipper in barrels, when the largest tanks are made use of; but the wrong was emphasized in the case of this company by the public being led to suppose that when the contents of the car exceeded a certain quantity or weight an extra charge was made, when in fact this was never done. But proofs of intentional disregard of the rights of the complainant, or of such want of regard for them as is equivalent, are made very evident in the correspondence between himself and the agents of the company.

The general freight agent of the company testified that its freight rates on oil in tanks up to April 5, 1887, were made regardless of quantity; that they were then changed to rates by the hundred pounds; but on the 11th of May following the company again went back to tank-car rates irrespective of quantity. Fixing the rate of tank-cars by the hundred pounds does not seem, however, to have meant much, for there were some shipments within this period by the Standard Oil Company regardless of actual weight, and the witness testified that a tank would have been received as holding 20,000 pounds, though this was greatly below the average quantity carried in one. He testified further that the Southern Railway and Steamship classification as printed and as given out by his company has this note: "Coal oil or its products in tank-cars must always be charged at actual weight;" but, though a member of that association, his company made only the tank-car rate, regardless of weight. That rate was printed on a type-writer and posted in its offices. The association has inspectors to report any underweighing, and if a tank was billed at 20,000 pounds and on weighing they found it to be more they should

report the fact, the witness said, but the report, so far as we can discover, would perform no valuable function whatever. The posting of a rate in the company's office was supposed by the witness to show sufficiently that the company did not accept the rule of the association as to actual weights. In this he was in error. The public would have a right to understand that his rate sheet and the note in the classification were to be construed together, and effect given to both thus construed.

The correspondence between this witness and the complainant will best show the discrimination so far as it seems to have been personal.

May 16, 1887, the witness, in response to inquiries by the complainant, says the company has no tank-cars and can not furnish them. "Regarding charge for returning empty tank-cars, we first wish to know to what points shipments of oil in tank-cars would be made. Generally, however, I may say the rate returning will be one and a half cents a mile." "The rates on coal oil, car-load, from Louisville to Huntsville, Ala., are, in barrels, 37 cents per 100 pounds." This statement of the Huntsville rate was conceded to have been an error. The witness says the rate was 29½ cents, but was mistakenly given by a subordinate who wrote and signed the letter in his name.

May 18 complainant replied, complaining that the rates actually made by defendant had the effect of discrimination as between tank-cars and barrel shipments to the extent of over 50 per cent. in favor of the former, to the great injury of his business in favor of the Standard Oil Company, and adding:

"Please state why it is that the rates by barrel and bulk are made the same to some points and 50 per cent. difference to others, and how can you thus discriminate against me? Can't you give a lower rate than 37 cents per 100 pounds in barrels, Louisville to Huntsville, Ala., and are you not letting other shippers ship their oil at a less rate?"

"What I desire to know is if you are willing to pro-rate on an equitable basis with the C., W. and B. on my oil shipments from this point. Please answer promptly and oblige."

May 21 the witness answers:

"The rate to Huntsville and to other points which we have quoted are as low as we are at present prepared to name."

Here the witness adopts and in effect repeats what he says was a mistake in his subordinate, after his attention had been specifically called to the figures. Complainant was thus notified that the rate to him would be 37 cents, though others were charged 29½ cents only. In fact, there seems to have been shipments by the Standard Oil Company of Kentucky at 27½ cents, but this charge was possibly an inadvertence. The answer proceeds to justify the difference in rates as between tank and barrel shipments, and then goes on to say:

"I do not see that it is any of your business whether we pro-rate with the C., H. and D. or C., W. and E. roads or not. You can doubtless obtain through rates from them, and the matter of division of revenue between those companies and our roads is a matter that concerns only our respective lines and not you."

Here was a third mistake. It was undoubtedly the business of the complainant to ascertain if he could whether this company would pro-rate on an equitable basis with any other road over which he desired to ship his oil, and in that way obtain through rates. Nothing in the case shows that through rates were then in existence, unless it be the statement in this letter that through rates could doubtless be obtained of the other roads; but if there were such rates there was nothing out of the way in complainant endeavoring to procure a modification, and his inquiry on the subject was not wanting in either civility or propriety.

Further the letter proceeded to say:

"In conclusion, let me repeat that the rates furnished you are just as low as furnished anybody else; that whatever rates may be furnished by the L. and N. road apply to all shippers, and that all communications from you asking for rates of freight or appertaining directly to your shipments over our line will meet with respectful consideration and attention; but I have neither the desire nor the time to give attention to your letters asking for the reasons governing the policy of the Louisville and Nashville Railroad Company, criticising its rates, or suggesting basis for dividing rates between its connections and its own line, and I shall not reply to any such communications in the future."

This lacks accuracy, for the Huntsville rate was still 37 cents to complainant and 29½ cents to other persons, and it overlooks altogether the fact that "the policy" of the company, so far as it affected his shipments, was complainant's concern as well as the concern of the company, and he was entirely within the bounds of what pertained to his business as well as of right in endeavoring to bring about a change.

May 17, in answer to an inquiry from the office of the witness, complainant was given a rate of \$1.30 on oil in car-load lots, Cincinnati to Nashville. This is also conceded to be an error and an excess over the rate then charged to others; but the error was not corrected, as it should have been, in the subsequent correspondence.

August 29 complainant wrote the witness as follows: "Please name rate on coal-oil in barrels and tank-cars, Louisville to Nashville, and advise what rate per tank-car you allow; also rate to Columbia, Tenn., car-load, and what classification do you now use?" On the next day he wrote again: "Please name rate on tank-cars, Louisville to Montgomery, Ala.," etc.

September 2, instead of answering these letters, the witness writes to ascertain by what line or lines the shipments would be forwarded from Marietta; a fact which could have no bearing on the inquiry made of him. His company was supposed to have regular and stated rates on its own lines, and he was asked to give them. He should have given them with the same promptness when the oil was to be delivered to him over another road that would be expected from him when the traffic originated at Louisville.

On the hearing the witness was asked whether he had not refused to give complainant rates on barrels to Knoxville and Nashville, and he replied:

"No, sir; not that I know of. I will add that I know of no reason why we should refuse him rates to Knoxville and Nashville, and I would say that we have not."

It nevertheless appeared that the witness, on being pressed by complainant to give rates on defendant's line, referred him to Mr. Fraser, of the Cincinnati, Washington and Baltimore road, for through rates. He was told in reply that Mr. Fraser refused to give rates, but he still continued to refer complainant back to him. The witness was asked by a member of the commission—

"What objection could you have, no matter over what roads the oil came to Louisville, to name rates from Louisville to Nashville?"

"Answer. Nothing, except that I thought he ought to get rates from the lines he dealt with. They had our rates."

The question in substance was repeated for further answer.

"Answer. Well, if Mr. Rice was prepared to or had delivered his oil directly, there would have been no objection. We would, of course, have been willing to name him tariff rates, but he was away from our line and we preferred to let him get the rates through our connections. We felt that if we furnished him a rate and that rate was advanced and we did not give him any special notice of the change, and he went along doing business, basing his price on the rate that had formerly been quoted him, that he would hold us for the overcharge."

"Q. Was that the reason, so that you might be in position to advance the rates without notice?—A. Without special notice to him; that was the main reason. There was another reason that also influenced me in not giving him rates. I found that Mr. Rice had been asking the Cincinnati office for part of the rates and our office for part of the rates; and while the rates in our office and in the Cincinnati office are supposed to be the same, still if he got the rates partly from my office and partly from the Cincinnati office we would not know to what points they had quoted him rates, and the Cincinnati office would not know to what points we had quoted him rates."

"Q. What was the objection to his being quoted rates from any other office if they were the same?—A. If he got the rates from our office and he had to be notified by special letter in case of an advance in those rates, I would not know if the Cincinnati office had quoted him any rates, and would not be able to notify him of the advance in the rates quoted by the Cincinnati office. If he had to be notified by the Cincinnati office of an advance in rates they would not know that we had quoted him any rates. I was clearly of the opinion and still think that the proper place for him to get his rates was from the line that took his business in the first instance. With the number of people writing constantly for rates, the giving special notice to shippers of changes is very liable to be overlooked."

It will be noted that this testimony comes from the officer who would be expected under the law to have the rates on his own lines printed and posted in the offices of the company, and open to public examination. If the rates were thus printed and posted much of the correspondence would seem to have been needless, and the inference is very strong that the law, in its spirit at least, was not observed. The injurious consequences resulting therefrom were not relieved by answers to complainant's letters. He was not given the rates because, as we are told, the officer supposed if that were done and the rates afterwards changed he would be under obligation to give him personal notice of the change. This hardly seems a plausible excuse. The law imposed upon defendant's officers no obligation to give special notice to shippers in case of lawful change of rates, and the giving out of the tariff sheets or the quoting of rates could no more create such an obligation than could the posting of the sheets at the company's stations, as the law required.

The witness was further asked whether he did not persist in his refusal to quote rates after he had been notified that Fraser declined to name them. He replied: "That is likely, but I do not think I am to be blamed for Mr. Fraser's action." This is quite true; he should not be blamed for Mr. Fraser's action. It was his own illegal refusal

to act that he was blamable for. Mr. Fraser was not compellable to name rates over any road but his own unless he joined in making them; but this witness's obligation to give the rates on his own road was plain and unquestionable.

The two following letters will close the quotations from the correspondence:

From complainant to the witness, of date September 19, 1887: "Your two letters of the 13th and one each of the 14th and 17th at hand. I have stated to you that Fraser, of the C., W. and B., the initial road, refuses to give me through rates by your road, and still, when I so repeat this to you several times, you persistently ignore what I say and constantly refer me back again to him. This is now played out, and I now again ask you point blank, Do you still refuse to give me the oil rates from Louisville as asked for in my several previous letters? A further refusal to give me these rates or to furnish them immediately I shall consider an absolute denial to give them. Your rates from Louisville are lower, as stated by me, and same denied by you, as an instance will quote. Brent Arnold, your agent at Cincinnati, quotes \$1.30 per barrel, Cincinnati to Nashville; Marietta to Cincinnati, 32 cents per barrel, or \$1.62 total. The rate from here (Marietta) to Louisville is 50 cents per barrel, and Brent Arnold quotes 18½ cents per 100 pounds, Louisville to Nashville, this route via Louisville, thus saving me over 40 cents per barrel, provided you would so condescend to give me a rate from Louisville. This is a fine state of affairs. On September 8 I asked you to forward me a copy of each of your tariff or rate sheets issued since April 1, and to put me on your exchange list, so that I would be notified promptly of any change in oil rates. This request you ignore and do not answer. By this means you would legally avoid all legal liability for any discriminations that could possibly arise, and where one is constantly asking for rates to ship on this should be done and save so much correspondence; but you doubtless think otherwise. I take it for granted, unless I hear to the contrary, that you refuse to give me oil rates from Louisville. You do not answer my question in my letter of the 10th. I am desirous, and will build immediately twenty tank cars to carry bulk oil over your system if you will guaranty or assure me that you will carry said oil in said tank cars at as low a net rate as accorded any other shipper."

To this the answer, of date September 27, was: "Your favor of the 19th instant was received during my absence, which has prevented an earlier acknowledgment of the receipt of it. I have nothing to add to my letters of September 13, 14, and 17 upon this subject."

Complainant did not succeed in obtaining rates. The denial of his right was plain and stands unexcused. Counsel for this defendant did not attempt on the argument either to show cause for it or explain it away. What reasons there may have been for it we do not know, but find that they were not just or legal reasons. We further find that defendant was guilty of unjust discrimination against complainant, as charged, and that the discrimination was in favor of the Standard Oil Company of Kentucky and all other parties sending oil by tank cars. We further find that to the extent that rates on barrel shipments were erroneously given and persisted in, as in the case of rates to Huntsville and Nashville, defendant was guilty of unjust discrimination against complainant in favor of other parties sending their oil in barrels.

The case of the Saint Louis, Iron Mountain and Southern Railway Company is confused somewhat in the record, as it was in the correspondence, by the fact that that road was operated for the period in question by the Missouri Pacific Railway Company. Some extracts from the correspondence are here given.

April 28, 1887, complainant writes the commercial agent of these roads at Saint Louis:

"Please give me the terms on which tank cars, empty, are returned, as I see by your classification it is by special contract; also, do you make bulk oil by weight per barrel when shipped in tank cars? If so, state the weight and how many gallons in bulk you figure on to the barrel. Can I ship one or more tank cars at same rate, or does the Water-Pierce Oil Company or the Standard Oil Company have any preference as to number of cars shipped?"

May 2 he writes the assistant general freight agent:

"Do you take tank cars at 20,000 pounds regardless of weight, as your special rate (No. 54 A) is ambiguous on this point? At what weight per barrel in barrels and in bulk do you carry coal oil; also what special rate do you charge on return of empty tank cars when not furnished (or furnished by shipper)? Please name barrel and tank-car rates (car-loads), Palestine, Tex.; Santa Fé, N. Mex.; Leavenworth and Atchison, Kans., and Kansas City, Mo."

May 5 the commercial agent replies:

"Changes adopted at recent meeting of Texas Traffic Association at Houston made coal oil in barrels or cases, class A, in car-load lots and in tank cars, minimum weight 25,000 pounds, 50 cents per 100 pounds, Saint Louis to Houston, Galveston, Jacksonville, Texas-kana, and intermediate stations."

The points here named are on defendant's road.

May 9 the assistant general freight agent writes:

"The weight of a tank car contemplated under our special 50 A is 20,000 pounds. Shipments of oil in barrels to points governed by western classification are taken at estimated weight of 400 pounds per barrel; to points governed by joint Texas classification at actual weight.

"With reference to rate on return empty tank cars I beg to advise that from Missouri River points—i. e., Kansas City, Leavenworth, and Saint Joseph—we return them free when the same have been hauled over our line. The same rule applies on tank cars from Texas, with the understanding that no mileage is to be paid or allowed by the railroad companies."

"The rate on coal oil in tank cars, East Saint Louis to Santa Fé, is \$1.65 per 100 pounds actual weight; to Leavenworth, Atchison, and Kansas City, 25 cents per 100 pounds actual weight. The rate on coal oil tank cars, East Saint Louis to Palestine, is 50 cents per 100 pounds, minimum weight 25,000 pounds."

This last rate is corrected to 45 cents by letter dated the next day. These letters of May 5th and May 9th are both written under the heading of Missouri Pacific Railway Company.

May 10 the commercial agent writes:

"In looking over our correspondence we note the concluding portion of your letter, which asks if Waters-Pierce Oil Company have any preference as to number of cars shipped. We answer, No, sir; you are exactly on the same level as any other oil shipper over our line. We carry all shipments at actual weight and make the usual mileage charge on return of empty tanks."

This last statement was not warranted by the facts; defendant made an allowance to the owner of the car of three-fourths of a cent per mile for the use of the car.

May 11 complainant writes the assistant general freight agent:

"Do I understand that tank cars of bulk oil are taken at 20,000 pounds each? Also that 200 cases (or 60 barrels) are taken also at 20,000 pounds (per special rate No. 52 A)?"

May 16 complainant writes the commercial agent:

"Do you charge extra for return of empty tank cars; if so, how much?"

The special rate, 52 A, above referred to, was put in evidence. It purports to be issued by the Missouri Pacific Railway Company and gives rates "on illuminating and lubricating oils in car-loads of 300 cases or 60 barrels, or per tank car of 20,000 pounds, from Saint Louis, Mo., to Venitia, Ind. T., \$65; McAlister and Muscogee, Ind. T., \$100." These points are not on defendant's road.

Also special rate 53 A, issued by the Missouri Pacific Railway Company, and taking effect at the same time, as follows: "Coal-oil, car-loads, from Saint Louis and Carondelet, Mo., to Newport, Ark., \$50 per car of 55 barrels, or per tank car; Little Rock, Ark., \$50 per car of 55 barrels, or per tank car; Texarkana, Ark., 45 cents per 100 pounds." The rates per tank car by this last would apparently be irrespective of actual weight.

May 19 the assistant general freight agent writes complainant:

"Replying to your communication of the 11th, I beg to advise that the rates mentioned in our special No. 52 on illuminating and lubricating oils are per tank car of 20,000 pounds; that the excess over the number of cases or barrels mentioned loaded in box cars, or the excess over 20,000 pounds contained in a tank will be taken at a proportionate rate per 100 pounds. In this connection I beg to advise you that our rate on oil in tank cars to McAlister and Muscogee is 50 cents per 100 pounds. In other words, we do not exceed to McAlister or Muscogee the rate which is made to Denison, 50 cents per 100 pounds when in tank cars."

May 21 complainant writes the assistant general freight agent:

"Do you actually in each and every instance weigh tank cars of oil as shipped out, as well as the empty tank cars on their return, and charge full net weight thereon as thus shown, or do you estimate them, or how do you do this? Please answer promptly and to the point, and oblige."

May 25 an answer to other portions of this letter ignores the above query altogether.

Several other letters passed between the parties relating specially to the discrimination made by the published tariffs between the shipments in barrels and cans and by tank cars.

September 8 complainant writes the assistant general freight agent:

"Please inform me if you are still taking tank-car oil at an estimated weight per car, or do you actually weigh each and every car, or do you take the estimate given you by the consignor? Will you give me the same net rates and weight by tank car to Austin, Dallas, Palestine, Houston, and Galveston that you now give the Waters-Pierce Oil Company, or as low net rates as is given any shipper over your various lines, and please name me those rates to above points?"

This was answered as follows:

"The charge on oil loaded on tank cars is on a basis of actual weight, minimum

weight 25,000, at the established rates, which are open to any shipper. This also answers your letter of the 8th to Mr. O'Connor."

The minimum car rate is stated in the evidence to have been raised on defendant's road to 25,000 pounds in July.

September 23 complainant writes the Assistant general freight agent:

"You refer to my two letters of the 8th, but fail to answer the most important part of those letters, which I repeat once more, in order that you may clear up the obscurity of your vision. I am desirous and will build twenty tank cars to carry bulk oil over your system of roads, provided you will assure or guaranty to me the same net rates that you allow the Waters-Pierce Oil Company or as low a net rate in tank cars as is accorded to any other shipper to such general points as Austin, Dallas, Palestine, Houston, Galveston, and other points reached by your vast system."

September 27 reply was made: "The rates charged by this company are open and alike to all shippers."

September 30 the complainant writes the Assistant general freight agent:

"Please inform me of the largest size or the largest capacity of tank cars you will carry over your lines and the largest capacity now used, and have you any particular requirements how they shall be built in order to conform to your general rules? Will you state to me more definitely and assure or guaranty me, in case I build tank cars, that you will give me as low net rates per car or per 100 pounds that you will give to the most favored shipper that ships in that manner over your lines, regardless of the quantity shipped? This assurance and guaranty I desire before I put my money into it, that I shall be treated exactly alike and have as low net rates in all other respects (regardless of commissions, etc.) that is accorded any other shipper, large or small. I am now in correspondence with tank-car builders on this subject, and desire an early answer."

October 4 this was answered:

"We have no regulations governing the weight carried in tank cars different from the customary rules between Western roads as to the weight carried in ordinary cars, nor do we require these cars to be constructed on any special plans or dimensions. You are probably as familiar as our people with the kind of tanks customarily used. As to your request for further guaranty that you will be treated alike in the matter of rates, we can only refer to our previous letters on this subject and to the laws under which our company operates as a common carrier."

It can not be denied, we think, that complainant, from this correspondence, must have had some difficulty in determining for himself what he would be charged on shipments in tank cars. The statements are different, as they relate to different points on the roads in charge of the parties making them, and the limitation of 20,000 and 25,000 and the reference to actual weight are so presented as to be confusing, to say the least. On May 5 complainant is given a rate to Texarkana by the tank car, 25,000 minimum weight, but the actual rate appears by special sheet 53 A to have been 45 cents per 100 pounds irrespective of quantity, and the evidence, we think, strongly tends to show that the shipments to Texarkana were actually made up to July 11, regardless of quantity.

Whether the weight carried was ascertained by actually weighing the cars loaded and empty complainant was not told, though obviously it was important that he should know. His persistent queries elicited no response. The evidence tends to show, however, that, with the exception of a few shipments made early in the year, the actual weight was paid on; but certainly complainant was not to be blamed for being pressing and persistent in his inquiries when the published rate sheets were so far wanting in clearness and certainty. Had all the facts been known to him precisely as they are brought out by the evidence, it is not unlikely that this complaint would have been limited to the discrimination between the barrel and tank rates as shown by the published tariffs. We do not find evidence in the case that the officers of the road have made use of any devices to give further differences than those which the rate sheets show, and the tanks which were taken at uniform rates did not differ widely in size, as was the case on other roads.

It is apparent from the correspondence that, as regards the tank cars furnished and the return of them by the company after the oil had been delivered, this company was and perhaps still is without any definite rule. It is impossible to doubt from the correspondence that the officers would have felt at liberty to make a charge to complainant for returning his cars if he had shipped over their lines. It is not claimed, as we understand it, that the Waters-Pierce Company was so charged at the time the letters on that subject were written.

On the whole, we find that neither the published tariffs nor the correspondence gave to the complainant the information he was fairly entitled to; that the effect was to repel his attempts to engage in shipping in tank cars in competition with the Waters-Pierce Oil Company, if, in fact, his purpose was in good faith to enter into the competition.

On behalf of the Cincinnati, New Orleans and Texas Pacific, and the Alabama Great Southern Railroad Companies, a legal argument has been filed, the purpose of which is

to demonstrate that the transportation of oil in barrels is so far a different traffic from the transportation of the same articles in tanks, by reason of the different circumstances and conditions; that the charges made upon the one can not be the proper measure of the charges to be made upon the other. In support of the general position thus taken quotations are made from *Great Western R. Co. vs. Sutton*, 4 Eng. & Ir. Ap., 239; *Lotspeich vs. Central Railroad of Georgia*, 73 Ala., 306; *Chicago etc., R. R. Co. vs. People*, 67 Ill., 24; *Girardot vs. Midland R. Co.*, 4 Railw. and Can. Traf. Co's, 291; *Nicholson vs. Great Western R. Co.*, 5 C. B. (N. S.), 636; and, as to reasonableness of charges, *Denby Main Colliery Co. vs. Manchester, etc., R. Co.*, 11 App. Cas., 97; *Smith vs. Pittsburgh, etc., R. R. Co.*, 23 Ohio St., 10, and *Evans vs. Oregon R. and T. Co.*, 1 Interstate Commerce Reports, 336, are relied on. These are instructive cases.

On this general subject we have already said all that we think necessary at this time. The traffic, in whichever method conducted, is one traffic; the two methods are different; but the chief difference is found in the fact that for the one the defendants furnish the rolling-stock and for the other they do not; but this difference can not, on any grounds of equity or justice, entitle them to discriminate in their charges as against the method which is conducted according to the usual mode and by accepting the facilities they offer. The conditions are such that justice can not be done to those who send their merchandise according to the customary mode, except by protecting them against the relatively lower rates which are given to those who adopt the other mode.

On the question of discrimination against the complainant the correspondence with the general freight agent of these roads will be instructive.

April 9, and again on the 12th, complainant wrote the general manager of the first-named road for rates. On the 16th the general freight agent replied as follows: "The present rate on oil in barrels, car-loads, and also in tanks from Cincinnati to New Orleans is 34 cents; Birmingham, 47 cents; Meridian, 58 cents; Vicksburg, 54 cents; Knoxville, 24.4 cents; Chattanooga, 24.4 cents; Atlanta, 46 cents; Montgomery, 47 cents; Jackson, Miss., 61 cents; Mobile, 34 cents; Selma, 47 cents; Shreveport, 74 cents per cwt."

April 18 complainant again wrote: "Rates from Cincinnati received. The Standard are selling oil in Birmingham, Ala., at prices which indicate a lower rate than you quote. I therefore desire to know if your rates from Ludlow or any other points on your line are lower than rates named me from Cincinnati. Please advise and oblige."

This does not seem to have been answered, and the inquiry was renewed and elicited a response on the 28th, as follows:

"Rates on coal oil. I beg leave to inform you that the rate on coal oil in barrels, car-load lots, Cincinnati to Birmingham, is 47 cents per 100 pounds.

"We have renewed rates to all points south of the Ohio and east of the Mississippi River, as published March 31. This basis will continue in existence until the Interstate Commission have definitely determined the question of the long and short haul clause. You are, of course, aware that the Southern Railway and Steamship classification makes coal oil, car-loads, sixth class."

The noticeable thing about this letter is that it refers to the classification of the Southern Railway and Steamship Association with an evident purpose to have complainant understand that this company recognized and accepted it. The proof shows that such was not the fact. Defendant, though it accepted it in part, and circulated it with its rate sheets, repudiated it so far as concerned this traffic and some others, and its rates were materially different from what they should have been had that classification governed them. The repudiation of it, however, was only notified to the public by the making of special-rate sheets which were not in conformity to it; obviously a very imperfect mode of giving the information.

May 28 complainant writes:

"Please state if oil in tank cars and barrels is under same classification, and also what rate per barrel you ask on barreled oil, also in bulk, per tank car, and how many gallons you allow to a barrel in bulk per tank car."

May 4 the general freight agent replies:

"As stated in my last communication, the classification of coal oil in barrels, in car-load lots, is sixth class. I regret that I am not yet in position to quote through rates on coal oil in tank cars to all points reached by connecting lines, not having yet received the necessary information from them.

"I am not able to answer your inquiry as to how many gallons will be allowed to the barrel, but beg to assure you that every consignment will be way-billed upon an actual weight basis."

Here is repeated the erroneous information about the classification.

May 4 complainant writes:

"Do you take tank cars of oil at actual weight—that is to say, do you weigh each and every car? At what rate per barrel do you now take barreled oil; also bulk oil per

barrel, and how many gallons of bulk oil do you allow to a barrel; also what charges for return of empty tank cars? In my letter of April 18, I asked you if you were now giving any lower rates to other parties from shipping points outside of Cincinnati on coal oil to the various points and places named to me per your letter of April 18. To this question you have not as yet answered. I would be much obliged if you would answer promptly."

This was not answered promptly, and on May 7 complainant writes complaining of the neglect, and also of discrimination between shipments in barrels and in tanks supposed to have been agreed upon at a meeting in Chicago.

May 9 the general freight agent replies:

"Rates on coal oil. Referring to your two favors of the 4th and 7th instant I regret that my frequent and enforced absence from Cincinnati have at times prevented as prompt replies being given to your communications as I would have wished.

"I beg to inform you that this company was not represented at any meeting held in Chicago on March 11, and also that upon all shipments of coal oil in barrels we propose charging upon an actual weight basis.

"As you are aware, the classification of the Southern Railway and Steamship Association makes the rate on coal oil in barrels, car-load lots, sixth class. You are also aware that by special authority of the National Railway Commissioners the lines of the Southern Railway and Steamship Association have renewed their former rates, and I take pleasure in forwarding to you by this mail a copy of our latest tariff from Cincinnati.

"I think it hardly necessary for me to say that above rates will be charged to all shippers alike."

Here the mistake about the classification is again repeated. The reference to the National Railway Commissioners—by which this Commission was intended—was misleading, to say the least. The Commission never investigated coal-oil rates, or gave "special authority" for their renewal; it never sanctioned any difference in the rates as between tank car and barrel shipments, and had never up to the date of this letter had its attention called to them in any way. What it did was to relieve the carriers represented in the association temporarily from the strict rule of the fourth section of the act to regulate commerce, with a restriction that in the meantime the disparities existing under their tariffs should not be increased.

May 11 complainant writes, and what he says regarding the classification of the Southern Railroad and Steamship Association is altogether natural under the circumstances:

"Yes; I am aware that the classification of the Southern Railroad and Steamship Association makes rate on coal oil in barrels sixth class (same as tank cars), but what does such issuance of a rate amount to when not lived up to by you and other lines? Mr. Gault wrote me and called my attention particularly to a printed circular issued by Virgil Powers, commissioner, dated November 1, 1886, in which barreled and tank-car oil is both made sixth class. Your tariff sheet No. 11, dated November, 1886, just received, makes barreled oil fifth class and tank-car oil sixth class. How do you reconcile this? But this difference is trivial compared to other more gross outrages practiced by your lines and others in carrying tank-car oil by the lump (regardless of weight) at about one-fourth of that charged on barreled oil, pound for pound.

"You say that upon all shipments of coal oil in barrels we propose charging upon an actual weight basis. Does this apply to tank-car shipments of bulk oil; and, if so, do you actually and without a question weigh each and every tank car of oil that goes over your line, and charge full weight thereon?

"Please name me rates on oil in tank cars and barrels to Lexington, Chattanooga, Atlanta, Birmingham, Jackson, Miss.; Meridian and Vicksburg, Miss.; Knoxville and Huntsville, Tenn.; Shreveport, La., and Montgomery, Ala. I trust and hope that you will give me these rates promptly.

"Please state if any charge for return of empty tank-cars. Can you not prorate with the C., W. & B. so as to give me through rates from here to above points?"

The reply May 14 is as follows:

"In my letter of the 28th ultimo, which you refer to, I advise you that we had renewed rates to all points south of the Ohio and east of the Mississippi River, the same as were in effect on March 31. I have already sent you copy of our tariff No. 11, which indicates rates now in effect and which have been in effect from the time we received from the National Commissioners the exemption from the fourth clause of the interstate commerce law. I note your request to be furnished with rates to Lexington, Chattanooga, Atlanta, Birmingham, Jackson, Meridian, Vicksburg, Knoxville, Huntsville, Shreveport, and Montgomery, and will endeavor to obtain the necessary information from connecting lines, and advise you further as early as possible.

"I regret that we can not prorate with the C., W. and B. road, and our rates will consequently apply from Cincinnati."

The inquiry as to a charge for the return of the tank cars, it will be seen, is not responded to.

May 16 complainant writes to get rates, and adds:

"Please inform me why you can not prorate with the C., W. and B. on the through rate on the oil from here. You certainly must prorate with her on other business from other points, or from east and west."

The answer, May 20, was that "all shipments of coal oil pay our rates from Cincinnati, and we are not prorating on this traffic from any point whatever."

Some other letters near this time are omitted as not being important to this controversy.

May 28 the general freight agent writes:

"Referring to recent correspondence and quoting rates to the points named in your letter of the 11th instant, I beg to inform you that the following rates on coal oil are obtainable from Cincinnati to points named:

	In car tanks.	Car-loads per one hundred pounds in barrels.
		<i>Cents.</i>
Lexington.....	\$26.00	13
Chattanooga.....	50.00	33
Atlanta.....	61.80	46
Birmingham.....	60.00	47
Meridian.....	60.00	45
Vicksburg.....	60.00	34
Knoxville.....	50.00	38
Huntsville.....	*.37	
Shreveport.....	\$118.00	64
Montgomery.....	112.00	47

* Per 100 pounds.

As bearing upon this table a list of shipments was given, some of the figures in which require notice. The rate—barrel rate—to Lexington was soon reduced to 10 cents per 100 pounds, the tank rate remaining the same. The average shipment in tank cars to that point seems to have been of 31,223 pounds weight, which would make the rate on tank-car shipments about 8.32 per 100 pounds, and the barrel rate about 20 per cent. higher. The only shipper to this point in either mode was the Standard Oil Company of Kentucky. In contrast to these the shipments from Cincinnati to Chattanooga were in tank cars varying from 25,000 to 43,815 pounds. The barrel rate was 33 cents per 100 pounds. The tank rate was \$50 per car. At 33 cents per 100 pounds the rate on the oil carried in the smallest car would have been \$82.50; on that carried in the largest it would have been \$144.50. On an average of the two it would have been \$113.54. The average makes the rate on barrel shipments 125 per cent. in excess of the rate on tank shipments, instead of 20 per cent. excess, as at Lexington.

A similar vast discrepancy was shown in the rates from Cincinnati to Meridian. The tank rate was \$60, which, if the tanks averaged 24,000, would make the rate per hundred pounds 25 cents; or, if they averaged 30,000, 20 cents. But while this charge remained the rate on barrel shipments was raised to 56 cents per 100 pounds, probably not less than 175 per cent. excess over the tank-car rate.

May 30 complainant sent the following letters:

"Please name rate on oil, tank cars and barrels, car lots, to Mobile and New Orleans."

Also:

"Yours 28th, inclosing rates, finally to hand after several applications. These rates are prohibitory on my shipments, as you know full well, and the device or method of the tank-car shipment in bulk is purposely used against me (who ships entirely in barrels) in order that I can not compete with the Standard Oil Company in the sale of my products.

"By these rates thus given me to nine prominent points in the South you discriminate against my shipments not less than 67 per cent. and as high as 213 per cent., while to one—Huntsville, Ala.—you make the rate the same per 100 pounds for both barreled oil and that in tank cars. I will here show you how I arrive at this comparison:

"All the bulk oil carried in tank cars from the Pennsylvania oil regions to the seaboard pays the same amount for 50 gallons in bulks as for 50 gallons (including the barrel), or the empty barrel is carried extra to compensate for the return of the empty tank car, and can not bring back freight as against a box car that can. I maintain and assert that the tank cars of the Standard Oil Company hold at least 100 barrels of 50 gallons (or 5,000 gallons each) on an average, while some of them hold over 6,500 gallons (or

130 barrels), but for a fair and equitable basis I will call it 100 barrels, and herewith give you the results and the amount of discrimination you dare to impose on me in the face and eyes of the interstate act:

From Cincinnati to—	Per car, tanks.	Per barrel.	Per 100 pounds in barrels of 400 pounds.	Per barrel.	Discrimination.
Lexington, Ky.....	\$26.00	\$0.26	Cents.	13	Per cent. 100
Chattanooga, Tenn.....	50.00	.50	23	1.32	164
Atlanta, Ga.....	61.80	.62	46	1.84	196
Birmingham, Ala.....	60.00	.60	47	1.88	213
Meridian, Miss.....	60.00	.60	45	1.80	129
Knoxville, Tenn.....	50.00	.50	33	1.32	164
Shreveport, La.....	118.00	1.68	94	2.56	117
Montgomery, Ala.....	112.00	1.12	47	1.88	67
Vicksburg, Miss.....	60.00	.60	34	1.36	126
Huntsville, Ala.....	(*)		(*)		

*Thirty-seven cents per 100 pounds for both.

"Do you really think that under the interstate act you can boldly go on and thus discriminate against my shipments to the ruin of my business, which you doubtless are willing to hazard in the interest of the Standard Oil Company so long as they foot the bills or compensate you for all damages that may accrue for such gross violations of the law?

"I desire to call your attention to section 10 of the interstate act as a further warning from one who wants to ship his oil products over your line, and to give you notice that for every tank-car load of oil, as well as for every smaller lot, L. C. L., that you have carried since the interstate act has taken effect, and all such from this time forth that discriminates or has discriminated against my shipments, I shall hold your road and all the officers concerned therein to a strict accountability for each and every offense. I emphatically protest against such gross discrimination and call upon you to desist as an extra warning. If at any time you conclude to change your tactics upon this subject please inform me."

June 2 came the reply:

"Your two letters of the 30th ult. to hand. The rates on coal oil from Cincinnati to New Orleans are at present as follows: Tank cars, \$60 per car; barrels, 34 cents per 100 pounds.

"It will be necessary for me to communicate with my connections before I can quote rates to Mobile. I will, however, do this as early as possible. As regards the rate to Huntsville, I would explain that the M. and C. Co. refuse to make any reduction to the local stations; therefore, I could not give you a lower rate on coal oil in tank cars than is made on barrels. We very much prefer to handle this traffic in tank cars, and I should be glad if you could conveniently arrange to forward your oil in this manner. I completely fail to find any discrimination in this, as the rates are open to you and to all other shippers, and I shall be glad, indeed, if you can use them.

It is scarcely necessary to follow this correspondence further. From this time on it consists largely on the part of complainant of complaints he makes of discriminations as against barrel rates. We think and we find that complainant was unjustly discriminated against by the Cincinnati, New Orleans and Texas Pacific Railway Company during the whole period covered by the petition filed against it, and was also unjustly discriminated against by the same railway company in connection with the Alabama Great Southern Railroad for the like period. We find that the tank rates, which were made uniform, regardless of quantity, were in themselves an unjust discrimination. The general freight agent notifies complainant that they were made on an estimate of seventy barrels capacity. A statement put in evidence by the Standard Oil Company of Kentucky, which was the principal shipper in tank cars, showed the average capacity of tanks made use of in their shipments to be over a hundred barrels. This increased enormously the difference between rates in barrel and tank shipments, which we have already found would have been excessive had the capacity of the tank cars been no more than it was assumed to be.

We also find that there was unjust discrimination as against complainant and in favor of the Standard Oil Company of Kentucky, in this, that from April 5th to April 21st defendant was nominally making a uniform rate on oil in barrels and in tank cars by

the hundred pounds, but it shows without dispute that the Standard Oil Company of Kentucky was during that time sending oil in tank cars over defendant's road apparently at tank-car rates. If the rates were computed by the hundred pounds it was not only on an assumed basis, but on one that fell far short of actual weight. In point of fact, there was no shipment whatever in tank cars by weight.

It is noticeable also that it was not until May 28 that complainant was enabled to obtain tank-car rates to Lexington, Chattanooga, Atlanta, and other towns named in his letter of that date, yet the Standard Oil Company had all the while been shipping to those points over this road, and, of course, had rates given it.

It is further to be noted that complainant was not, on his request for it, given the information whether, if he supplied himself with tank cars and sent his oil by that mode, he would be charged for the return of the empty cars. He should have been given the very important information that trackage was paid by defendant instead of a charge exacted.

The general freight agent failed on the hearing to explain why he several times made reference in his letters to the classification of the Southern Railway and Steamship Association. The circumstances fairly called for such an explanation. It is an important fact, which this officer should have perceived, that without this classification sheet a shipper would be unable to ascertain what the rates over his road were without coming to him for them, and yet his company accepted the classification only in part, and claimed not to be responsible for it further. He seems to ignore the fact that, except in connection with the classification, the publication of his rates is not in compliance with the law.

It is quite possible that this officer, and also the corresponding officer of one or more of the other defendants, did not believe complainant was in good faith endeavoring to obtain tank rates for his own use. We do not ourselves know that he was; but that was no excuse for keeping from him or from anybody else a knowledge of such facts as would affect the rates. The general public had a right to know what the rates were, and any one who was contemplating even the possibility of making use of them had special right to ask for them. Complainant had a legal right to know whether, when the charge was to be made by the 100 pounds, it would be on an actual weighing or on an estimate.

He had an equal right to be informed that instead of being charged for the return of the empty car he would be paid for its use.

The published rate-sheets, so far as they related to rates on the lines of these defendants, ought to have given the information on both these points, and if they were blind or ambiguous it should have been supplied on request.

The Newport News and Mississippi Valley Company and the Louisville, New Orleans and Texas Railroad Company we find to have been guilty of discrimination against complainant in taking tank cars irrespective of capacity, on an assumption that the average capacity was eighty-five barrels, and charging therefor a rate which, as compared with the rate on barrel shipments, would have been relatively too low had the capacity been as was assumed, and which was relatively very much too low in view of the actual capacity.

On the hearing it was insisted on behalf of the first-named of these two defendants that the assumption on which its rate was estimated was made in good faith, and upon information given by an agent of the Standard Oil Company of Kentucky, which was believed to be correct, but which proved not to be so. The agent who gave the information was before the Commission and admitted giving it, but insisted it was given after the shipments in question were made, and that, as he understood the question put to him, it related to another line of cars, and not to the line in use on defendant's road. It is, perhaps, not very important now whether defendant's officer was or was not in fact misled. The mischief, so far as concerned the business of complainant, was done by giving tank-car rates instead of rates by the weight or quantity; and this wrong, which was one of policy on the part of this defendant, was made more prominent and perhaps damaging by a misstatement in the correspondence.

Complainant had expressed a purpose to obtain tank cars for his own business, and was desirous to know whether he was to be charged by the car irrespective of the capacity. This, we have seen, was the practice on the road of this defendant; but in reply he was told that the tank car was estimated at 20,000 pounds, and if the weight was more the excess would be charged for. To make sure on this point he wrote the general freight agent, and the reply, June 1, 1887, was, "A tank car is supposed to weigh 20,000 pounds; if it weighs more, then we will charge for it." In point of fact the assumption was that the weight was very much greater; 85 barrels at 325 pounds each would be 27,640 pounds, and defendant did not make any additional charge when the weight reached 35,000 pounds, as it sometimes did. If this statement was made in good faith it is difficult to account for it, and it is not accounted for. If it was the result of mere carelessness it was not the less misleading to complainant. The necessary tendency was to discourage him from entering into competition in this mode of ship-

ment if he had a purpose to do so, as he professed to have. Had he provided himself with cars for tank shipments and been charged as he was told he would be, the discrimination against him would have put success in the traffic out of question.

It appears that this company had no rule or settled practice as to paying trackage for the use of tank cars, and considered itself at liberty to deal with that subject by special contract. The facts were brought out by questions put by members of the Commission, as follows:

"Q. Do you pay car service on the tank cars?—A. On some cars only. We have an arrangement by which we do not pay.

"Q. On which do you not pay?—A. We have an arrangement with M. K. Fairbanks & Co. I do not think we pay anything on those cars, but we haul them empty free.

"Q. Well, on the other cars, do you pay car-service the same way?—A. We are compelled to pay the same as our competitors, or we could not get the cars to handle that business. It is three-fourths of a cent a mile.

"Q. What do you mean by 'that so far as this company is concerned, we do not pay mileage in either direction or haul any empty cars free'?—A. That letter was written in April. At that time the matter was being discussed between the lines that refused to pay mileage on any cars, and because they spoke of its being abrogated by all lines.

"Q. Then your statement there that you do not pay mileage was based on the belief that the conference resulted in their refusing to pay?—A. Yes, sir; refusing to pay mileage on all empty cars; but I told Mr. Rice in person that we would allow him the same as anybody else.

"Q. Is your tank-car mileage the same as it is on any other cars?—A. Yes, sir; three-fourths of a cent.

"Q. That is the regular mileage paid on cars?—A. Yes, sir.

"Q. Can you specify the shippers to whom you pay mileage and those you do not?—A. That is an account not kept in my office; but I know that with some we have an arrangement not to pay mileage.

"Q. You have no uniform rule on that subject?—A. That depends on the kind of agreement made on the business.

"Q. As far as you know, M. K. Fairbanks & Co. is the only concern to which you do not pay mileage; is that it?—A. I can not say that.

"Q. You have stated that it is the only concern you know of?—A. No, sir; I am not prepared to say it is. I do not know it to be so, because I think possibly others are not paid mileage by us.

"Q. How is it with reference to the Union Tank Line cars?—A. I think it very possible, but we do not keep that account in my office."

Here it is obvious are or may be present all the mischiefs that attend the giving of special rates and rebates. The railroad manager who supposes this is to be admissible has not fully grasped the significance of those features of the act to regulate commerce which were enacted to establish uniformity, equality, and publicity.

It is proper to say on behalf of these two defendants that after the filing of the complaint their rates were revised and made much more reasonable and just. It is also proper to give them the benefit of the protest made by the general agent of the first-named company against being supposed to have intentionally carried the very large tanks with knowledge of the actual capacity. If the officer was misled, as he claims to have been, the blame should fall upon the party deceiving him. We can not say in this case that there was anything more than an honest misapprehension, and are inclined to think that such was the fact; but one of the difficulties attending cases of this nature is, that while the law imposes severe penalties on the carrier and its agents for acts on their part designed or calculated to create discrimination as between shippers, it imposes none on shippers themselves who by artifice, misrepresentation, false billing, or other deception of the carrier secure advantages to themselves which it would be illegal and punishable for the carrier voluntarily to grant. If, therefore, the agent of the Standard Oil Company had purposely misled the defendant's officer in the matter referred to, and thereby obtained an unfair advantage, the complainant would be without redress, unless on the ground of negligence defendant could be held responsible for acting upon the false information.

The Illinois Central Railroad Company we find to have discriminated unjustly against claimant by making some of the barrel rates excessively high as compared to those on tank-car shipments; and also by shipping at car rates, irrespective of quantity, while leading complainant to understand that if the capacity exceeded a specified minimum the excess would be charged for.

From the evidence it appears that during the period in controversy tank-car shipments were made over the road of defendant to New Orleans only. To points to which no tank-car shipments were made this defendant did what was also done by the Louisville

and Nashville Railroad Company in some cases—made the same rates by the 100 pounds, whether shipments were made in tanks or barrels. If these equal rates were offered to the public in good faith, defendant ought to be compelled to give the like uniform rates to points to which tanks were sent; and if they were not offered in good faith, the defendant ought to be held estopped by its own rate-sheets from disputing the justice of this uniform rule.

But in this case we find, as we have so often found in others, that parties applying for tank-car rates are misled into supposing they are graded by quantity, when in fact they are uniform by the tank car.

May 3, 1887, the general freight agent of defendant wrote complainant as follows:

"Yours without date. I replied to your previous letter promptly, stating that the rate on oil from Cairo (according to the tariff sent you) when in full car-loads would take fourth class, released, whether in tanks or barrels, which will give the information desired."

May 4 he wrote again:

"Yours of the 30th ultimo. Our rates on oil in car-loads, released, 20,000 pounds and over, Cairo to Jackson, Miss., 50 barrels and over, \$1.65 per barrel; in tank cars, 24,000 pounds and over, 47 cents per 100 pounds; Cairo to New Orleans, in barrels or tank, car-loads, 24,000 pounds and over, 24 cents per 100 pounds.

"We have no rates at present in effect from Cleveland, but would refer you to H. Coope, Ga., O. & W. Railroad, Cincinnati, Ohio, for rates from that point to New Orleans and Jackson, Miss., via Odin."

What is noticeable in these letters is that the rate given is the same on shipments in the two modes, and that a minimum car-load rate is mentioned. The agent explains in oral testimony before the Commission that the rates here specified were old rates temporarily restored, and that there was a complete revision of rates afterwards.

May 31 the agent writes complainant:

"Rates on oil.—I have your much appreciated favor of the 26th instant. We charge for actual weights on oil, whether in tanks or barrels, and, as previously advised, our rates are to all shippers alike.

"Tanks which are hauled one way loaded are at present returned without extra charge in the same manner as other foreign cars are handled.

"The Mississippi Valley joint classification makes coal oil in car-loads, whether in wood or in tanks, fourth class, which rates we charge to points taking Mississippi Valley joint classification."

The agent says of this letter in his oral evidence:

"That refers to oil to local stations. It does not refer to New Orleans, as Mr. Rice has been repeatedly advised what the rate was there."

To put this in plain English it is this: Defendant proposed to charge for actual weight on oil in tanks to the points only to which no shipments in tanks were made. The offer of equal rates to the shippers in barrels was therefore illusory.

September 30 complainant wrote the general freight agent—

"I desire and propose to build twenty tank cars immediately to run over your lines, provided you will assure or guaranty me as low net rates as you accord to any other shipper, regardless of quantity shipped; also that you will carry oil for me in tank cars from any point or station on your line to points on and beyond your lines at the same proportionate (or division of a through rate) that you receive or get out of the most favored shipper.

"Please state how large capacity of tank cars you would allow to run over your road and how large tank cars have been used on your road; please answer promptly."

The answer, November 2, is as follows:

"Rate on oil from Cairo.—Upon returning to my office, after an absence of several weeks out on the line, I find your favor of September 30 and October 13.

"Coal oil or its products in barrels is now third class; if released, sixth class; actual weight to be charged for each case, but not less than 24,000 pounds per car load. I trust this heavy reduction in our local rates will enable you to do a large business over our line. As regards our guarantying you as low net rates as other shippers are charged, I have repeatedly assured you that our rates are the same to all shippers, and I do not know that I can do any more than already stated in this matter.

"I believe the largest tank cars we have hauled over our line contained about 40,000 pounds and as low as 20,000 pounds.

"I trust these new rates will enable you to ship over our line not only to the strictly local stations, but to Jackson, Tenn., Holly Springs, Grenada, and Jackson, Miss., as well, at all of which points there is a good trade.

"We would also like to handle business for you to Aberdeen, West Point, and Starkville, Miss., which points we can reach via Durant and C. A. and N. Railroad."

This answer was as polite as it was misleading. The party writing desires us to understand that it had no reference to shipments to New Orleans, though nothing in it

or in the letter to which it was an answer would restrict it in any such way; and how this officer could reconcile it to his duty to his own company or to the public to allow shipments of 40,000-pound tanks to New Orleans at the rates charged on tanks of 20,000 pounds he fails entirely to explain, as he does also to explain or excuse his discrimination in this regard between the shipments to New Orleans and those complainant might make to other points to which the other shippers over defendant's line were not sending tank cars.

Here, again, the question of paying for the use of the tank cars comes in question. It has been seen that on May 31 the general freight agent wrote: "Tanks which are hauled one way loaded are at present returned without extra charge, in the same manner as other foreign cars are handled." What is meant by this we do not know. All the evidence adduced before us tends to show the rule to be that foreign cars are not merely returned without charge, but that their use is paid for.

This officer being on the stand, the following proceedings took place:

"Q. What mileage do you pay for the use of tank cars?—A. I have nothing to do with mileage.

"Q. Have you no knowledge as to the amount of mileage paid?—A. If there is any paid it is three-fourths of a cent, the same as other cars. We make no discrimination in that matter.

"Q. You treat one car the same as you do the other?—A. That is my understanding."

If the general freight agent of the defendant did not know what the rule was on this important subject it may be safely assumed that the defendant made no publication which gave the information to the general public. So long as that was the case a pretest that the defendant makes no discrimination is not very assuring. The public was entitled to information given in an authoritative way as a part of the rate sheet itself, and should not have been left to suppose or imagine that it was or might be the subject of private arrangement.

Nothing in these cases more distinctly challenges attention than the fact that several of the defendants, while giving tank rates regardless of the quantity carried, informed complainant, when interrogated by him on the subject, that if the quantity exceeded a certain specified weight a charge would be made for the excess. The published rate sheets ought to have given clear and reliable information on the subject, and it was only because they were silent or ambiguous that the inquiries became necessary. The remarkable thing about the matter is that so many of these defendants should make the same mistake; a mistake, too, that it was antecedently so improbable any of them would make. The Louisville and Nashville, the Cincinnati, New Orleans and Texas Pacific, the Newport News and Mississippi Valley, and the Illinois Central Companies are all found giving out the same erroneous information, and no one of them can tell how or why it happened to be done, much less how so many could contemporaneously, in dealing with the same subject, fall into so strange an error. It is to be noted, too, that it is not a subordinate agent or servant who makes the mistake in any instance, but it is the man at the head of the traffic department, and whose knowledge on the subject any inquirer would have a right to assume must be accurate. In no case is the error excused, and if it be conceded that there was no purpose to mislead, the case is not relieved of unpleasant features, for gross negligence, when it is damaging, may be equally culpable with wrongs of intent.

In our review of these cases two facts have been constantly pressing upon attention as constituting cogent, if not conclusive, proof that the several defendants operating lines east of the Mississippi were not endeavoring by their tariff sheets to adjust their rates on grounds of relative justice as between themselves and their patrons, and also between the two classes of patrons, and that the considerations which they say in their answers and testimony entitled them to make the higher charge on barrel shipments were not controlling in the fixing of rates.

One of these facts is that they made tank-car rates regardless of quantity. It can not be said that this was done in ignorance of the great differences which existed. It clearly appears that it was generally known that the differences were very great. If it had not been known it should have been. The evidence shows that the weight and capacity of the tank cars of the Standard Oil Company of Kentucky were not stenciled upon them, as was the case with the like cars of some other lines, but the difference in size must have been very obvious to the eye, and defendants, it is to be presumed, had the means at any of their important stations to weigh or gauge them.

The other fact is that the discriminations were made on no principle, and could not possibly have been measured from a consideration of the circumstances which defendants say entitled them to impose the heavier charges on the traffic carried on in barrels. Sometimes the rates were made the same, and when that was the case no reason has been assigned therefor which would embrace all the cases and distinguish them from other

cases in which the discriminations were very great; but when discriminations were made the excess in charge upon barrel shipments varied from 20 per cent. to 200 or more. Neither greater risks, greater expense, competition by water transportation, or any other fact or circumstance brought forward in defense, or all combined, can account for these differences. The conclusion is irresistible that the rate sheets were not considerably made with a view to relative justice.

We have thus, with as much brevity as was practicable, in view of the great bulk of evidence, reviewed these cases and expressed our conclusions. It remains only to direct what orders shall be entered in the cases, respectively.

In the case against the Louisville and Nashville Railroad Company order will be entered that the defendant do forthwith cease and henceforward abstain from the unjust discrimination found to exist in its charges for the transportation of petroleum oils as between shipments in barrels and in tanks, and from making any higher charges by the 100 pounds for the transportation of the oils in barrels, including the barrels, than it makes or shall make contemporaneously for the transportation of the like weight of the oils in tanks.

It will be further ordered in the same case that the said defendant do forthwith cease and hereafter abstain from making uniform rates for the transportation of petroleum oils by the tank car instead of by weight or quantity when the capacity of the tank cars in use on the lines of road is not uniform or nearly so; the necessary effect of such uniform rates by the tank being to establish unjust discriminations and to give to shippers of oils in tanks undue and unreasonable preference and advantage.

In the case against the Saint Louis, Iron Mountain and Southern Railway Company order will be entered that the defendant do forthwith cease and henceforward abstain from the unjust discrimination found to exist in its charges for the transportation of petroleum oils as between shipments in barrels and in tanks, and from making any higher charges by the 100 pounds for the transportation of the oils in barrels, including the barrels, than it makes or shall make contemporaneously for the transportation of the like weight of the oils in tanks.

In the case against the Cincinnati, New Orleans and Texas Pacific Railway Company order will be entered in the same terms as the order above directed to be entered against the Louisville and Nashville Railroad Company.

In the case against the Cincinnati, New Orleans and Texas Pacific Railway Company and the Alabama Great Southern Railroad Company order will be entered in the same terms as the order above directed to be entered against the Louisville and Nashville Railroad Company.

In the case against the Newport News and Mississippi Valley Company and the Louisville, New Orleans and Texas Railroad Company order will be entered in the same terms as the order above directed to be entered against the Louisville and Nashville Railroad Company.

In the case against the Newport News and Mississippi Valley Company and the Illinois Central Railroad Company order will be entered in the same terms as the order above directed to be entered against the Louisville and Nashville Railroad Company.

In the case against the Illinois Central Railroad Company order will be entered in the same terms as the order above directed to be entered against the Louisville and Nashville Railroad Company.

In the case in which the Illinois Central Railroad Company is sole defendant, it is unnecessary to enter any order at this time. In so far as discriminations have arisen from rates on tank shipments they will be corrected by this company if the order made against it in the case last above mentioned is observed. As to the further controversy which this case presents, what is said in the cases against the Mobile and Ohio and the Mississippi and Tennessee Railroad Companies is directly in point.

In each of the cases in which an order is to be made, as above stated, a report and finding of facts and conclusions is entered herewith and is to be considered a part hereof.

A history of the organization, purposes, and transactions of the General Council of the Petroleum Producers' Unions, and of the suits and prosecutions instituted by it, from 1878 to 1880.

Prepared by a committee appointed by the General Council, February 19, 1880, in pursuance of the following resolution: "Resolved, That a committee of three be appointed by the chair, to prepare an abridged history of the organization, purposes, and transactions of the General Council of the Petroleum Producers' Union, and a history of the several suits and prosecutions instituted by it from August, 1878, to February, 1880, and that the same be printed in pamphlet form for the use of the council."

[Published by order of the General Council of Petroleum Producers' Unions at its regular meeting at Titusville, August 10, 1880, to which the committee reported the following pages.]

In order that a connected narrative of the absorption of the petroleum traffic by the Standard Oil Company may be given, the resolution of the Producers' Council of February 19, 1880, complied with, and a full understanding of the various proceedings instituted arrived at, it is necessary to look back to the 9th day of April, 1872. On that day the South Improvement Company and corporations controlling the trunk lines of railway combined with it formally surrendered to a mass-meeting of producers held in Oil City. On that day, after a vigorous campaign of less than three months, the united oil producers of western Pennsylvania had compelled the abandonment by the South Improvement Company and the great railroad corporations of the contracts under which they had intended to plunder the producer and consumer of petroleum, the repeal of the charter under which the combination purposed legalizing its acts, and had formally executed, with enthusiasm and trusting confidence, a written agreement with the various railroad companies, solemnly attested with corporate seals and official signatures, guaranteeing to refiners and producers equal and open rates of freights. The Producers' Union declared their work accomplished, threw down the sword, spear, and shield, hung up their armor of defense, and rested from their heroic and successful labors amid praises and congratulations.

Not so, however, the conspirators with whom they had been contending. Defeated, frightened, and humiliated, they retired sullenly to their cities of refuge, from whence they had sallied forth with too much self-confidence, and, determined to profit by experience, proceeded to concoct new schemes for the absorption of the traffic in petroleum. Indeed, it can not be supposed, in the light of subsequent acts, that they for a moment abandoned their original intention. The cup they had seen dashed from their lips when they were about to quench their greed with millions of unlawful gains still presented itself to their thirsty imaginations. Confident of a plan based upon the corrupt acquisition of millions without the investment of a dollar, and sure that in the weakness of human nature they would find the necessary tools to enable consummation to follow design, they waited with calmness until the storm that had temporarily wrecked their schemes should subside, and men should again begin their lawful avocations in the security of promises made only that they might be broken.

The producers had made war against the combination between the South Improvement Company and the railroad corporations because by agreements in writing signed by the Pennsylvania Railroad Company, the Erie Railway Company, the Atlantic and Great Western Railroad Company, and the New York Central and Hudson River Railroad Company and the South Improvement Company, it had been expressly declared to be the design to prevent competition in refining and transporting by a system of secret rebates and drawbacks, and thereby to build up the South Improvement Company, and because the inevitable result would be to control the price of the crude product at the wells and substitute one buyer for many competitive purchasers. Further than this it was the intention to absorb the producing interests as well as the refining, and to place in the hands of one great corporation, with charter privileges almost unlimited, the absolute control over the first crude export of the nation, annually yielding to the public in 1872 many millions of dollars. This statement is warranted by the terms of the South Improvement contracts and by the testimony given by William G. Warden and others before the Congressional Committee on Commerce in 1872. No political economist, no statesman would risk his reputation by denying that such a monopoly was as dangerous to the principles of our Government as to the prosperity of its commercial interests and the private rights of individuals and communities.

The men who originated the South Improvement Company were, so far as known, William Frew, Charles Lockhart, and William G. Warden, composing the firm of Lockhart, Frew & Co.; John D. Rockefeller, William Rockefeller, Henry M. Flagler, O. H. Payne, stockholders and directors of the Standard Oil Company, of Cleveland, Ohio; Jabez A. Bostwick, Peter H. Watson, then president of the Erie Railway Company, and Waring Bros., refiners. These persons, with few exceptions, not educated in any cor-

rect school of business, and some of them accustomed to the crooked and equivocal methods of railroad management and mismanagement, committed the error of openly avowing their purposes, and had not sufficient moral perception to know that they were embarking in a criminal conspiracy against the laws of commerce, the principles of republican government, and the prosperity of their fellow-citizens. It is evident that this was one of the lessons learned by the defeat of 1872, and being better advised, their course thenceforward was cautious, secret, and, tortuous, and their approach to the object of their ambition stealthy and studied.

Armed with the knowledge of experience, and advised by legal talent, while the unguarded producer and refiner, wreathed with the laurels of recent successful combat, slept in fancied security, the South Improvement Company, with a new suit of clothes and no name, stole into the oil regions and began its second campaign.

It is said that the ink was scarcely dry upon the paper upon which was written the contracts of 1872 before propositions were made to violate them in favor of certain parties. Certain it is as early as 1873 complaints began to be heard that a secret rebate was being given by transporting companies to certain refiners, and the business of others was being injured by inability to secure as cheap transportation for oil manufactured at Titusville, Oil City, and Franklin as for that at other places, and particularly Cleveland, Ohio.

The years 1873 and 1874 saw the formation of the "Central Association" of Refiners, of which John D. Rockefeller was president and Charles Pratt, treasurer. While this was designed to consolidate the refining interest, and while it received a rebate from the railroad companies, yet its members did not all prosper. If money was made, it was not apparently divided with impartiality; for, while Rockefeller and those intimately connected with him seemed to prosper, other oil region refiners found themselves growing poorer and poorer.

In October, 1874, the general freight agent of the New York Central and Hudson River Railroad Company issued a circular by which it was apparent that a combination had been formed to absorb all competing lines of pipe in the oil region, and place the transportation of petroleum from the wells under its domination.

From 1874 to 1875 the refiners were approached with offers to purchase their works. With few exceptions they were losing money, and, as they believed, solely through the operation of the rebate system. They could not secure equal rates of freight with others. There was evident discrimination in favor of Cleveland, from 200 to 300 miles farther from the sea-board by rail than the oil region refineries. The Standard Oil Company of Cleveland, Ohio, did not seem to be losing money. Organized in January, 1870, with a capital of \$1,000,000, its capital was increased in February, 1872, \$1,500,000, and March 13, 1875, \$1,000,000 more, making an aggregate of \$3,500,000.

From the summer of 1874 to the summer of 1875 nearly all the refineries of the oil region and of Pittsburgh passed, by sale or lease, into the hands of the Ohio corporation.

From 1875 to 1877 it became evident that the Standard Oil Company had become interested in the ownership and management of the pipe lines from the wells, and that it had taken into partnership either the railroad companies themselves, or else such controlling officers of those companies as could be approached, and from the nature of their duties and positions were useful.

Early in the year 1877 the Standard Oil Company, the United Pipe Lines, controlling local transportation throughout the region, except that of the Union Line, and all the trunk lines of railroad except the Pennsylvania, struck their final blow by inaugurating a war upon the latter railroad, the object of which was to bring it into the combination and force the sale by it to the Standard of the Union Pipe Line and all the oil-carrying equipment of the Empire Line, together with those refineries that had been built in its interest, or were supplied by the transportation lines of the Pennsylvania Railroad and the Union Pipe Line. Enormous rebates were allowed by both the United Pipe Lines and the railroads in the combination, and the Standard party were enabled to deliver petroleum at the sea-board almost free from transportation charges, and put it upon the market in New York at about the same price it was worth at the wells. The Pennsylvania Railroad and its feeding pipe lines and sustaining refineries succumbed to this pressure, and the whole passed, on the 17th day of October, 1877, into the ownership and control of the Standard combination, of which the Pennsylvania Railroad then became itself a member.

In the mean time the Standard party had materially strengthened themselves, by taking into their outer circle such prominent producers and refiners in the oil region as they believed would be useful to them in the event of another contest like that which had broken them in 1872. Many were paid high salaries for nominal services; others were contracted with in such way that they received portions of the profits; some of these contracts were shamefully violated by the Standard. But in all cases they managed to retire the capable business men who had been engaged in refining from that occupation for a term of years, and bind them by pecuniary and penal obligations to silence, inactivity, or co-operation.

The petroleum producers began to see that their enemy had surprised them, and that the South Improvement Company, with its giant combinations, its secret rebates, its purpose of monopoly, was an existing fact, firmly established in the producing region, in the centers of trade, and in mysterious and inaccessible recesses of the railroad rings.

A movement was at once inaugurated to stay the further progress of the combination, and producers' unions were formed in nearly every city, borough, village, and producing district of the oil region.

By the constitutions of the unions, all persons engaged, directly or indirectly, in the production of petroleum were entitled to membership upon taking an obligation of secrecy as to the business transactions of the association, which obligation, however, was soon afterward removed. Each local union was entitled to five representative delegates to the General Council of the Petroleum Producers' Unions. Subsequently the basis of representation was fixed at two delegates for the first twenty-five members and one delegate for each additional twenty members of any local union. From twenty-five hundred to three thousand persons were enrolled as members of the unions.

The objects of the unions were declared to be "the collection and dissemination of valuable information respecting the production, storing or tanking, shipping, refining, and consumption of petroleum; the securing the most advantageous facilities for transportation; the protection of the producing interests against unfriendly legislation and unjust exactions; the correction of all abuses and pernicious practices detrimental to the producing business, and the improvement of the trade generally."

The first meeting of the General Council of the Petroleum Producers' Unions was held in the Universalist Church in the city of Titusville, on the 21st day of November, 1877, and remained in session day and evening during three days, one hundred and seventy-two delegates being present. Its organization was completed by the election of Benjamin B. Campbell as president, A. C. Hawkins and A. J. Wilcox as vice-presidents, Henry Byrom as secretary, George Boulton as treasurer, and W. H. Huffman as sergeant-at-arms. To carry out the purposes of the council and the unions as declared in their constitutions, standing committees were chosen upon the following subjects: Finance, reports and statistics, transportation, pipe lines, patents, refining, legislation, national legislation. To these were afterwards added a committee upon legal remedies. The second Tuesday of each month was fixed as the day for regular meetings of the general council, and the city of Titusville as the place.

The scope of the narrative will not admit of an extended account of the transactions of the general council. It will be sufficient to say that that body, composed of the ablest and most intelligent citizens of northwestern Pennsylvania, selected from among the body of the people throughout the counties of Allegheny, Armstrong, Butler, Clarion, Venango, Crawford, Warren, and McKean, from November, 1877, for many months, gave to the business of the unions their time, attention, and best thought, and their recommendations and work may be briefly summarized. One of the earliest acts of the council was to advocate the adoption of some system by which overproduction of petroleum could be prevented. Efforts were made to stop the drilling of new wells and to induce individuals to provide storage for their product in order that they might not be subjected to the making of forced sales. Had it not been for the unprecedented development of the McKean County field, and the introduction into the producing business of a large number of operators who had not before been producers, it is possible something might have been accomplished in this direction. But the producers continued to crowd each other with new wells and to rely solely upon the United Pipe Lines to furnish storage and local transportation. The result was that the eager driller of wells found his product at the mercy of his purchaser and was speedily subjected to low prices and loss of oil.

At the date of the first meeting of the general council the entire storage and transportation facilities, local, and to the seaboard, had passed into the hands of the Standard Oil Company and its confederates. Immediate measures were taken looking to the establishment of some independent transportation line. The Seaboard Pipe-Line, then projected, was encouraged, and a plan formed by which producers should become part owners thereof, with a voice in its management, under the direction of the council. The Equitable Petroleum Company was formed exclusively of producers of petroleum in the McKean County field, and this enterprise was also encouraged by the general council. This company was intended to give an independent outlet by local pipe transportation to the McKean and Buffalo Railroad and thence to Buffalo, and by way of the Erie Canal to New York. In July, 1878, this line began to carry oil, and to a limited extent afforded relief. It was not allowed to operate in peace. The hand of the combination was laid upon it at every movement, and railroad companies violated their contracts, took up their side tracks, refused connections, and generally did the bidding of their masters, occasioning delay and loss.

When the proposed plan for the producers to become interested in the Seaboard Line had been abandoned and the Tide-Water Pipe Line Company inaugurated its enterprise,

it was considered advisable to encourage this also, as it promised to be an independent transportation and storage line, and to be in no way under the control of the Standard combination.

In the mean time the committee on legislation was not idle. It procured to be prepared and introduced in Congress the first and original bill, since known as the "interstate-commerce," or "anti-discrimination" act, and successively advocated by Mr. Watson, of Pennsylvania, and Mr. Reagan, of Texas. A similar bill was introduced in the Pennsylvania legislature, in which body it passed the senate, but met sudden death in the lower house, in which it was said few were able to understand it. No one has been found to dispute this want of intellectual capacity, nor that natural obtuseness was materially assisted by the influences prevailing in that body.

A more stringent law regulating the business of companies engaged in the transportation and storage of petroleum, and designed to prevent the issuing of fraudulent certificates or accepted orders for oil not in fact representing the actual commodity, was allowed to pass the Pennsylvania legislature, but only because it contained a clause repealing the former law, and thereby relieving pipe-line officials who had transgressed it from the penalties of fine and imprisonment. The proposed free-pipe bill likewise failed to become a law. The design of this was to enable all persons and companies complying with the law to procure charters under which the right to condemn a right of way in the manner prescribed by railroad law could be exercised, and the continuity of a line rendered possible across those points where hostile ownership of land or of railroad rights of way had heretofore prevented the laying of pipes, and greatly increased the expense of transportation.

May 15, 1878, a committee of the council summed up their report in reference to these matters by this condemnation of the legislature of Pennsylvania:

"How well we have succeeded at Harrisburg you all know. It would be in vain for your committee to describe the efforts of the council in this direction. It has been simply a history of failure and disgrace. If it has taught us anything it is that our present law-makers, as a body, are ignorant, corrupt, and unprincipled; that the majority of them are, directly or indirectly, under the influence and control of the very monopolies against whose acts we have been seeking relief. * * * There has been invented by the Standard Oil Company no argument or assertion, however false or ridiculous, which has not found a man in the Pennsylvania legislature mean enough to become its champion."

It is not likely that the venal statesmen referred to were much impressed by the opinion expressed of them. But when we remember that the men who came to this deliberate conclusion represented in business a product worth millions to the country, in population a quarter of million citizens of Pennsylvania, and in sentiment several millions of people, language fails in attempting to properly characterize the sordid rogues who are willing to prostitute themselves and their official positions to the injury of their fellow-citizens, merely that they might, for a time, be recognized as the supporters of corrupt power.

Before the legislature of the next year, 1879-1880, and before the next Congress, the fate of the legislation proposed by the oil producers was the same. They were petitioners without listeners, and beggars not only without benefaction but whose prayers were treated with contempt. Congressmen had not yet been educated to the point where they could comprehend the necessity of a law regulating interstate commerce, and the Pennsylvania legislature—the law-making power—failed to give relief in that State.

In May, 1878, the committee on legal remedies reported that it advised the council to consult lawyers, with a view of enforcing whatever existing laws there might be, prohibiting conspiracies in restraint of trade and discrimination in freight rates by common carriers, and soon afterward the committee was authorized by the council to take the preliminary steps. It will be observed that, so far, neither the local unions nor the council had brought any practical relief to the oil-producing interest; and, beyond the benefits of organization and education of the public as to the evils complained of, and the principles by which they might be remedied, nothing had been accomplished.

Before entering upon a narrative of the institution of the several legal proceedings it may be well to give a condensed account of the condition of the oil trade during the period from November 1, 1877, to September, 1878, the former being the date at which the Standard Oil Company absorbed the Pennsylvania Railroad and its pipe lines and refineries, the only remaining outlet not before swallowed up, and the latter the time at which legal proceedings were determined upon and begun.

So far from being in the least diverted from their objects by the organization of the producers, the Standard combination continued their oppressions with renewed vigor, and seemed determined to show, by the rapidity and force of its blows, that there would be no repetition of the South Improvement surrender, and no concessions would be made except at the end of successful warfare, resulting in the victory of the producers.

During the months of October and November, 1877, the United Pipe Lines gave a rebate upon pipe-line freights to the Standard party, Warden, Frew & Co., J. A. Bostwick, and others of 17½ cents per barrel on a local pipeage rate of 30 cents. In December, 1877, it was announced that the United Pipe Lines could not take care of the oil produced, and great difficulty was experienced in getting oil carried from the wells. Asserting that, by reason of its inability to move and store petroleum, it was necessary that all oil taken by it should be immediately shipped from the lines by rail, the United Pipe Lines began to require the well-owner to contract that the oil he desired to be transported should be sold for "immediate shipment," and would pay for such oil, when so contracted, a price from 2½ to 25 cents below the price of its paper representative, daily sold in the Oil Exchange. The making of this contract for immediate shipment was a condition precedent to relief of the producers' well tanks by the pipe line.

Even when these contracts were made no immediate relief was had, the line refusing to pay for the oil until all had been taken by it, and refusing to take what it had contracted to buy for days and weeks, and frequently leaving a few barrels of the purchase in the producer's tank while they removed the greater quantity. In this way the Standard combination got from the producer his oil at a price below its market value, and refused to pay him even this. This system was continued in the McKean County district upon the plea of great overproduction in that field, but was practiced likewise in the river district, where the protection was constantly decreasing and tankage and pipe transportation ample. The Standard Oil Company and its confederates were almost the only buyers. They owned 90 per cent. of the refining capacity of the United States. In the pipe-line offices at different points their buyers were placed behind railroad counters, and applicants to have oil shipped by pipe line, standing in long lines and crowds in front of the openings, were referred to the place where the immediate shipment buyer stood.

Very many producers had foreseen the necessity of providing iron tanks in which to store their product, and a very large amount of private storage was connected with the United Pipe Lines. The owners of tanks had signed contracts with the United Lines by which they gave to it the exclusive use and control thereof for a period of ninety days from the dates of their agreements, and ninety days' notice being necessary by either party to terminate the contract. The only consideration agreed to be paid by the Pipe Line Company was "that it would carry in its system of pipes and tanks an amount of crude petroleum not exceeding the capacity of the tank," and deliver the same to the railroads on payment of shrinkage and fire-loss charges and freight transportation rate.

The tanker would from time to time procure accepted orders or certificates for certain quantities of his oil and sell them, generally, of course, to the Standard buyers. The United Pipe Lines took the position that under their contracts when a producer or tanker had once had his tank filled to its capacity their obligations ended, and though, as a matter of fact, the tanker had sold all of his petroleum, and delivered the paper representative of it to the purchaser, yet this did not relieve his tank, but it was theoretically still full. The pipe line, therefore, refused to take from the wells the oil of those who had iron tankage, allowed it to run to waste, or compelled the tanker to sell under the "immediate shipment" system. It availed nothing, therefore, for the producer to invest capital in iron tanks to hold his oil.

While the condition of producers in the oil region was thus rendered as bad as possible by the local control of storage and transportation by the Standard combination, its allies and victims, the railroad corporations, exercised all their power in aid of the conspiracy. There were oil cars and transportation facilities sufficient to move from the region to the sea-board and refining points, daily, not less than 60,000 barrels of crude petroleum. The Standard Pipe Line Company, in its statements, did not at any time claim that the production at this time reached that amount. Yet the railroad officials in response to demands for cars in which to ship petroleum alleged that they had none, and could not supply them. At the same time that absolute refusals were made to supply the cars, it was ascertained that large numbers, at one time, in July, 1878, over 200, were standing empty upon side tracks, and had been left there two weeks at a time. It was also discovered that the Standard party were allowed to leave cars standing full upon side tracks at points of consignment, without demurrage charge or objection. These things were done under cover of what the railroads called an "allotment," and in this way: The Standard shippers owned a large number of private cars running upon the various railroads, subject first to their own requirements, but when not in use, to be furnished, of course, by the railroads to shippers. These cars, ample to do the business of the Standard without drawing upon those of the railroads, were kept upon side tracks, and "requisitions" were then made upon the railroad companies for their cars, which were "allotted" to the Standard, partly upon the basis of its being the largest shipper. In other words, as the Standard in its position at this time was prob-

bly shipping 80 or 90 per cent. of the crude petroleum of the region, they might be given 80 or 90 per cent. of the cars of the railroad companies, and 20 or 10 per cent. only would go to all other shippers, while the private cars of the Standard were idle or covered by a general standing requisition. Even the small number which were admitted to be subject to the demand of the shipper outside the combination were furnished with such delays and such irregularity that dealers were subjected to constant annoyance and damage. The effect of this system was to prevent the transportation and delivery of petroleum to refineries outside of the Standard combination, of which there still remained a few, and many of these were compelled frequently to stand idle for want of the crude product, of which it was said there was too much produced, and to carry which pipe lines and railroads had the most ample facilities. Of course, when oil was carried for those outside the combination they paid a freight rate from 50 cents to 75 cents per barrel greater than that charged to the Standard shippers.

During all this time the price of crude petroleum declined steadily, and during the greatest shipments it reached its lowest figure.

But the railway and pipe-line companies did not stop with these oppressions. Whenever an effort was made to reach a trunk line of railroad by means of a shorter line, or by operating or building a pipe line, the projectors were met with threats of disconnection from their tanks; that side tracks would be taken up, loading racks removed, coal and oil traffic diverted, connections refused, and cars denied. These threats were actually carried out against the Equitable Petroleum Company Pipe Line, the Emlenton Pipe Line, and the Foxburg Pipe Line—all small local lines, endeavoring to relieve small districts within their reach. The managers of the Pennsylvania Railroad Company, at that time, the latest acquisition of the Standard combination, like all new converts, became the most zealous in its efforts, and for a time surpassed in injustice and wrong even the long-purchased Erie, Atlantic, and Vanderbilt roads.

In the mean time propositions had been made by the Standard party to the producers, based upon the theory of combination between them, the producers to agree to sell all their oil to the combination, and the latter agreeing to pay therefor a price based upon the relative price of refined. This looked superficially pleasing; but when it was ascertained that this would involve the surrender of the principle that such monopolies were contrary to law and policy, and that in the only two known instances where producers had been induced to enter into similar contracts they had been violated by the Standard party whenever they were likely to be profitable to the producer, the council declined to confer with John D. Rockefeller upon the subject. A number of gentlemen, however, of their own accord visited New York to hear what was to be said, and were there treated to a vast quantity of plausible talk, but they were unable to perceive anything like fair business in it, and returned home.

On the 9th day of July, 1878, a committee of five members on legal remedies was appointed by the executive committee, the former committee of three being discharged.

On the 10th day of July, 1878, a special committee of twenty-five, selected from members of the local unions, was chosen, and directed to go to Harrisburg, secure an interview with Governor Hartranft and the attorney-general, George Lear, esq., lay before them the grievance of the oil producers, and procure, if possible, the enforcement by the Commonwealth of such legal remedies as existed against the railroad and pipe line companies, and if the existing laws were found to be inadequate, to ask that an extra session of the legislature be called for the purpose of passing such acts as might be requisite, as were required by the constitution of 1873.

Eight members of the committee called upon Governor Hartranft and had an interview with him in the presence of Attorney-General Lear. The latter expressed the opinion that the existing laws of the Commonwealth, if enforced by the institution of proper proceedings, were sufficient to give relief for the evils complained of. Governor Hartranft desired the complaint to be reduced to writing, and a memorial was prepared, signed by fourteen members of the committee, representing each of the oil-producing counties and also Allegheny County. It was sworn to by these gentlemen, and was formally presented to the governor on the 15th day of August, 1878, at the executive chamber, Harrisburg.

After full discussion and consultation, the attorney-general and his deputy, Mr. Lyman D. Gilbert, determined to begin proceedings (1) against the United Pipe Lines by writ of *quo warranto* in the county of Venango; (2) by separate bills in equity against the Pennsylvania Railroad Company, the Atlantic and Great Western Railroad Company, the Lake Shore and Michigan Southern Railway Company, and the Dunkirk, Allegheny Valley and Pittsburgh Railroad Company, respectively.

These bills were to pray for injunctions restraining the railroad companies from combining with others to create and perpetuate a monopoly of the oil business; from granting unreasonable rebates to the Standard Oil Company and its confederates; from refusing cars to shippers, and from breaking connections with other roads; from buying and

selling petroleum in connection with the Standard combination; from refusing transportation; from making discriminations in favor of one shipper as against another; from granting greater facilities to one than to another; and from exceeding their corporate powers as charged in the bills.

By the *quo warranto* proceeding it was designed to take from the United Lines its charter for violations of its duty as a common carrier and unjust and oppressive discriminations.

At the request of the attorney-general, and his statement that he could not personally give his attention to the suits, the producers' committee named associate counsel to be charged with the active management of the cases, and those selected were Messrs. George Shiras and Mark W. Acheson, of Pittsburgh, George A. Jenks, of Brookville, and Roger Sherman, of Titusville. Mr. E. Copee Mitchell, of Philadelphia, also subsequently appeared in the cases.

During the days that these proceedings were being determined upon, and the necessary preparations being made, great popular excitement arose and grew in the oil region, by reason of the continued oppressions of the producers by the monopoly. Mass meetings were held, processions paraded the streets of Bradford, crowds assembled in front of the Standard and Pipe Line offices, where producers were waiting to sell their "immediate shipment" oil. At one time there were serious apprehensions of riot. Oil in great quantities was running to waste. The people were getting daily more impatient. The general council assembled in Bradford on the 20th of August and remained in session three days. In order to quiet the agitation and procure definite information as to the probable action of the governor the following telegram was sent by the vice-president to one of the counsel of the unions, on the 23d day of August, 1878:

"The Standard refuses to buy and the United Line to carry a barrel of oil. Tanks are running over. The people feel outraged and the situation is critical."

To which the following answer was sent:

"I have assurances from the highest authority that the Commonwealth of Pennsylvania will move for the relief of the producers of Bradford on Monday next, and the United Line Company will either perform its duties or cease to exist. Let the people stand firm."

The course of the governor was heartily applauded, and the meeting, after pledging its members to stand by the movement inaugurated, adjourned, and quiet was restored.

On the 26th day of August, 1878, Deputy Attorney-General Gilbert appeared in the court of common pleas of Venango County and filed a suggestion of the Commonwealth, at the relation of the attorney-general, and the court, Hon. Charles E. Taylor, president judge, awarded a writ of *quo warranto*, returnable on the 11th day of September. In obedience to a rule to answer, the defendants demurred to the suggestion. October 1, 1878, and October 28, the demurrer was argued. The opinion of the court, overruling the demurrer and requiring the defendants to answer in twenty days, was delivered November 11, and the answer of the defendants, in which all allegations of fact contained in the suggestion were denied, was filed December 1, 1878. This cause was therefore in position to be tried by jury upon the issues of fact presented by the suggestion and the answer. Prior to the filing of the answer, however, other and more important proceedings had been commenced, and constant labor in speeding these prevented further action for a time in the cause begun by *quo warranto* against the United Pipe Lines.

The immediate effect of this proceeding against the United Pipe Lines was the abandonment, on the 4th day of September, nine days after the writ issued, of the immediate-shipment swindle in the counties of Venango, Armstrong, Clarion, and Butler, a general order directing its cessation being issued and published by order of the executive committee of the United Lines.

On the 6th day of September, 1878, it was determined to invoke the assistance of the secretary of internal affairs, William McCandless, who is directed by the act of assembly of May 11, 1874, "to exercise a watchful supervision over the railroad, banking, mining, manufacturing, and other business corporations of the State, and to see that they confine themselves strictly within their corporate limits," and in case any citizens shall charge, under oath, any corporation with transcending its corporate functions or infringing upon the rights of individuals, he shall carefully investigate such charges and report to the attorney-general, who shall, thereupon, by appropriate legal remedy, redress any grievance by proceeding in the courts.

A deputy secretary was charged with the investigation, and began his hearing in Titusville on the 19th day of September, continuing the same from time to time, and at Pittsburgh and Harrisburg until the 8th day of October, 1878. Much testimony was taken and the existence of a combination, of a secret rebate system in connection with the Standard Oil Company, the refusals to furnish cars and to transport petroleum, and the illegal acts of the United Pipe Lines were all clearly proved. In this proceeding the

corporations for the first time developed the line of policy they intended to pursue—deliberate and defiant contempt of the law and its process. Though subpoenas were regularly issued and served upon many persons connected with the railroad freight departments and with the active management of the Standard Oil Company and the United Pipe Lines, yet not one of them obeyed the process, and some of them absolutely refused by direct communication to the secretary. He, having no power under the law to compel attendance, could not obtain their testimony, and the proceedings, in other matters, were greatly delayed by reason of want of definite knowledge of the details of the conspiracy.

On the 14th day of October, 1878, the secretary of internal affairs (William McCandless), who had not attended a hearing or examined a witness, and six days after the conclusion of the testimony, covering ninety-two closely-printed pages, startled those who did not know him, including the oil producers, by causing to be given to the press, by telegraph, what he called a "report," in which he came to the conclusion that "No case had been presented to him beyond the ordinary province of individual redress." This "report" was not received at Harrisburg until several days after it had been telegraphed over the country. Opinions differ as to whether Mr. Secretary McCandless was afflicted with the same kind of obtuseness that shadowed the Pennsylvania legislature when the anti-discrimination bill was before it, or as to whether there was a consideration paid for this performance of the secretary. Its object soon became apparent, for, on the 7th of October, 1878, the bills in equity determined upon by the attorney-general, praying for injunctions against the Pennsylvania, Atlantic and Great Western, Lake Shore and Michigan Southern, and Dunkirk, Allegheny Valley and Pittsburgh Railroad Companies, and against the United Pipe Lines, had been presented to the supreme court at Pittsburgh, and held under advisement by the court as to whether jurisdiction should be taken by it, or whether the plaintiff should be referred to the inferior tribunals in different counties—the courts of common pleas. The hasty telegraphic report of Secretary McCandless was intended, therefore, to affect the decision of this question.

It is well, however, to mark the fact that the performance of Mr. Secretary McCandless was a failure, and was received with derision and the contempt which it merited, and he was promptly hung in effigy at Parker and Bradford, with appropriate inscriptions.

From the 7th of October to the 17th the supreme court deliberated upon the question of assuming jurisdiction of the cases. It was considered that to refer them to local courts, with jurisdiction only in certain counties, and these widely separated, would be a defeat at the beginning. Throughout the oil region confidence in the probable action of the court began to be shaken. So far, no man had doubted its absolute independence, integrity, and devotion to the law. But rumors began to be circulated that the result was doubtful. Telegrams were sent making inquiries. To one of these, addressed to one of the counsel in the case, the following reply was sent: "Do not fear the supreme court, non-action would be denial of justice, which can not be imputed to its members."

On the 17th of October Chief Justice Agnew handed down an order allowing the bills to be filed, and announcing that the motions for preliminary injunctions would be heard at such time as might be agreed upon or fixed, early in November. On the 14th of November it was considered advisable to withdraw the motions for preliminary injunctions and proceed for relief on final hearing, the defendants agreeing to file answers immediately and have the causes referred to a master and examiner, who could proceed at once to take testimony. Consequently the answers, which, of course, denied all material allegations of the bill, were filed, and on the 26th of November J. Bowman Sweitzer, esq., was appointed master in all the cases, five in number, now placed at issue.

While these legal proceedings were being instituted a political campaign had been in progress, and a general State election was to take place on the 5th of November. The experience the producers had had with the legislature induced them to take steps to influence the election of men, irrespective of party, who were free from the control of corporations, whose ears would be inclined to hear and minds open to argument. They corresponded with members of the legislature and candidates throughout the State and addressed a letter to each of the candidates for governor—Henry M. Hoyt, Republican, Andrew H. Dill, Democratic, and Samuel R. Mason, National.

The following is the letter, with the reply of each of the three candidates, given in full, in order that subsequent events may be better understood:

TITUSVILLE, October 23, 1878.

Hon. HENRY M. HOYT:

SIR: During the past few months the Association of Producers of Petroleum, long oppressed in their immediate business and kindred industries by the persistent disregard of law by certain great corporations exercising their powers within the State of Pennsylvania, and daily subjected to incalculable loss by a powerful and corrupt com-

bination of these corporations and individuals, have appealed to the executive, legislative, and judiciary branches of the government for relief and protection.

The questions which they raise for the consideration of the authorities and the people, affect not only themselves but the whole public; not only the particular calling in which they are engaged but nearly all kinds of business in the Commonwealth and the nation.

The legislature has not responded to the demands made that the provisions of the constitution shall be speedily enforced by appropriate legislation.

The present executive has caused proceedings to be instituted in the courts looking to relief if it can be had by process of law, and these are still pending, while others may be begun.

In view of the grave duties which will devolve upon you should you be chosen to the high office to which you aspire, in behalf of the Petroleum Producers' Association I ask from you a definite expression of your views upon the following subjects:

First. Will you, if elected, recommend to the legislature the passage of laws to carry into effect the third and twelfth sections of the sixteenth and the third, seventh, and twelfth sections of the seventeenth articles of the constitution of Pennsylvania?

Second. If such laws should be passed as referred to in the preceding question will you, as governor, approve them, if constitutional?

Third. Will you, as governor, recommend and approve such other remedial legislation as may be required to cure the evils set forth in a memorial to Governor Hartranft of August 15, 1878?

Fourth. In the selection of the law officer of the State, will you, if elected, secure the services of one who will prosecute with vigor all proceedings already commenced or that may be instituted, having in view the subjection of corporations to the laws of the land?

Very respectfully,

A. N. PERRIN,
Chairman Committee.

MR. HOYT'S REPLY.

A. N. PERRIN, Esq.,
Titusville, Pa.:

SIR: Your communication of this date, addressed to me by you as chairman of a committee of the Petroleum Producers' Association, is received here. You ask for a definite expression of my views upon the third and twelfth sections of article sixteen and the third, seventh, and twelfth sections of article seventeen of the constitution of Pennsylvania.

These provisions of the constitution were intended to compel the railroads and canal companies of the State to the performance of their duties as common carriers with fairness and equality, without discrimination, to all persons doing business over their lines. This policy is just and right.

If called to a position requiring official action I would recommend and approve any legislation necessary and appropriate to carry into effect the sections of the Constitution referred to.

It would be my duty, if elected, to see that no citizen or class of citizens even were subjected to hardship or injustice in their business by illegal acts of corporations or others where relief lay within executive control. Any proper measures or legislation which would effectually remedy the grievances set forth in the memorial addressed to Governor Hartranft would receive my recommendation and approval.

It would be my duty, if elected, to select only such officers as would enforce obedience to the constitution and laws, both by corporations and individuals, without fear or favor, and all such officers would be held by me to strict accountability for the full and prompt discharge of all their official duties.

Very respectfully, yours,

HENRY M. HOYT.

LEWISBURGH, October 21, 1878.

A. N. PERRIN, Esq.,
Chairman Committee P. P. Union:

DEAR SIR: I am just now in receipt of your communication of October 15, 1878. In answer to your first question, viz, "Will you, if elected, recommend to the legislature the passage of laws to carry into effect the third and twelfth sections of the sixteenth, and the third, seventh, and twelfth sections of the seventeenth articles of the constitution of Pennsylvania?" I reply that, if elected, I will recommend the passage of laws for the purpose of carrying into effect those provisions of the constitution. I have been

and I am now earnestly in sympathy with all of the reforms inaugurated by the new constitution and will so use my official power, if elected, as to carry them into practical execution.

To your second question, viz, "If such laws should be passed as referred to in the preceding question, will you, as governor, approve them, if constitutional?" I answer, I will.

To your third question, viz, "Will you, as governor, recommend and approve such other remedial legislation as may be required to cure the evils set forth in a memorial to Governor Hartranft of August 15, 1878?" I answer: I will exercise whatever official power I may have to control and remedy the evils under which the oil producers suffer.

To your fourth question, viz, "In the selection of the law officer of the State will you, if elected, secure the services of one who will prosecute with vigor all proceedings already commenced or that may be instituted, having in view the subjection of corporations to the law of the land?" I answer: The selection of an Attorney-General, in the event of my election, must be controlled entirely by the qualifications of the gentleman to fitly fill his place in all respects. I will choose no man for so important a place who will not perform his whole duty in carrying into effect the remedial provisions of the new constitution or use every lawful means to remedy the evils under which the oil producers suffer, or compel subjection by all persons, whether natural or artificial, to the laws of the land.

I answer your questions as I do, not from any desire to express my sympathy with your cause for the purpose of the pending canvass, but to emphasize my record made in the senate upon this subject prior to any thought on my part that I would be a candidate for the office of governor of Pennsylvania.

Very respectfully,

A. H. DILL.

MONONGAHELA HOUSE,
PITTSBURGH, PA., October 28, 1878.

A. N. PERRIN, Esq.,
Chairman Committee P. P. Union:

MY DEAR SIR: Your favor of the 23d, which was forwarded from Mercer to Easton reached me at this place to-day.

My views on the question of monopolies, discrimination bills, and special legislation have been so often expressed, not only to individuals, but in public addresses, that I can not be easily misunderstood by those who have known and heard me for years past.

I have for a long time felt the necessity of amendments to the constitution of this State to enable the people, through their representatives, to guard against such enactments as above referred to; was one of the conferees who put in nomination the ticket from my district, and watched with great interest and solicitude the proceedings of that body. When the new constitution was framed and submitted to the people of this Commonwealth for their approval I examined it with care and came to the conclusion that, with wise legislation to enforce its provisions, it would meet all the requirements of the people, and voted for its adoption. I can say, therefore, not only of the third and twelfth sections of article 16, and the third, seventh, and twelfth sections of article 17, but of the entire instrument, that I approve of the same, and if elected the governor of this State would recommend to the legislature the immediate passage of such laws as would carry out and enforce said constitution both in its letter and spirit. As I have not now before me and do not call to mind the memorial to Governor Hartranft of August 15, 1878, and referred to in your communication, I can not, without a copy of the same, answer the third interrogatory in your letter. In the event of my election to that high office I would use my utmost endeavors to make my administration a success, and would select as the attorney-general of this Commonwealth the ablest man my judgment would dictate—a man of known integrity and ability, who would see that the laws were faithfully executed.

Very respectfully,

S. R. MASON.

Judge Agnew was the nominee of the National or Greenback party, though in reality he was an independent candidate, called by popular voice to a position he was eminently fit to occupy. The oil region gave a large vote to Judge Agnew, and J. Simpson Africa, for secretary of internal affairs, and the Republican ticket, except as to these candidates, received a large majority. The people were evidently satisfied with the manner in which Governor Hartranft had discharged his duty in a difficult crisis, and were convinced that Governor Hoyt's pledges would be fulfilled. The judgment of nearly all familiar with the subject is that Governor Hartranft was sincere in his efforts to give the oil-producing interest the benefit of legal remedies and necessary legislation. By his course he certainly incurred the enmity and abuse of those persons known to be identified with the corrupt element of Pennsylvania politics and prominent in the corporation ranks. Nevertheless, it was developed that the governor felt it to be necessary before proceeding to lay before the Pennsylvania Railroad officials the memorial of the oil producers, and the result was the immediate bringing to bear of all the political influences wielded by that corporation, but without success.

The several suits in equity being at issue, the master appointed the 10th day of December, 1878, at the Girard House, Philadelphia, for the purpose of proceeding with the testimony on the part of the Commonwealth. Subpoenas had been served upon several subordinate officials of the Pennsylvania Railroad Company (in whose case it was proposed first to proceed), and some of the associate counsel of the Commonwealth were present, ready to proceed. None of the witnesses appeared, and an adjournment was had to the next day. A note was then received from the Hon. John Scott, counsel for the Pennsylvania Railroad Company, saying that he had learned that there was probability that the complainant would not be ready even to-morrow. This was a surprise to complainant's counsel. He supposed he was ready as soon as the defendants' employes, duly subpoenaed as witnesses, obeyed the process of the law. But in a short time the mystery began to unravel itself, and the following telegram was received by the master from Attorney-General Lear, dated December 10, 1878:

"The Commonwealth desires a postponement of the case against the railroad until Mr. Gilbert or myself can be present. Have stated reasons to Mr. Shiras."

About the same time the following was received by Mr. Shiras, from Attorney-General Lear:

"Gilbert is in Maryland. I am engaged in the trial of cases, and will be all this week, and cannot leave. The Commonwealth must retain control of the oil and railroad case, especially as it will go over to the next administration. For this reason I desire to consult with you as to the order of evidence before you proceed, and wish a postponement for that purpose. Please request the master to continue the case until we mutually arrange a time. The Commonwealth must be fair to both parties."

To which the following reply was sent:

"To what time do you desire postponement? And when and where shall we meet?"

"Please answer immediately."

And the attorney-general answered as follows:

"Can not make arrangements as to time until I get to Harrisburg next week, and ascertain my engagements. The place is not important to me."

This ended the proceedings for that time.

On the 28th of December, 1878, one of the counsel for the producers had, by previous appointment, an interview with the attorney-general, to consult as to the course of proceeding in the future. The instructions given to the associate counsel were, that proceedings would not be authorized by the attorney-general by which the Pennsylvania Railroad Company's officials or employes should be first called as witnesses, but the producers would be first required to make out a grievance by legal evidence, without the testimony of the railroad officials, and when this had been done, then they could be called as witnesses. There seemed to be a desire to postpone action until the administration of Governor Hoyt had come in, he and the whole Republican ticket having been elected, to go into office early in January.

After this interview, the master appointed the 7th day of January, 1879, at Titusville, to proceed with the testimony on part of the plaintiff, and the counsel of the Commonwealth and of the defendants appeared at Titusville, the place of hearing.

In the course of an hour it was clearly developed that these cases were not to be allowed to proceed as other actions in courts, but were to be subjected to a practice the like of which had never been seen before, and it is to be hoped will never be witnessed again. In the first place, the counsel for the Pennsylvania Railroad Company permitted it to be known that Attorney-General Lear had been conferred with by some one in the interests of that company, and that certain instructions had been given by him to them as to the conduct of the suit. The nature of this proceeding will be best understood by giving the telegraphic correspondence before the case was allowed to proceed. Mr. John D. Archbold, President of the Acme Oil Company, refiner, and one of the branch com-

panies of the Standard combination, was called as a witness, and thereupon it was alleged that the Commonwealth had no right to examine him. Thereupon, after discussion, the following telegram was sent by the master to the attorney-general:

Hon. GEORGE LEAR,

Attorney-General, Harrisburg, Pa.:

John D. Archbold, president Acme Oil Company, and J. J. Vandergrift, president of United Pipe Line and director of Standard Oil Company, duly subpoenaed, decline to appear, alleging that you have agreed that they shall not be called until after other witnesses have been called to prove grievances. Is this so? Answer.

J. B. SWEITZER, *Master.*

HARRISBURG, *January 7, 1879.*

J. B. SWEITZER:

There was no agreement what witnesses should be called, but that proof should first be made of grievances by the complaining parties as a ground upon which to base an inquiry into the private affairs of the defendant corporations.

GEORGE LEAR.

HARRISBURG, *January 7, 1879.*

C. B. GUTHRIE, *Private Counsel for Archbold:*

The understanding between Mr. Sherman and me was, that the first evidence taken should be to prove that the parties complaining had suffered wrongs which the law ought to redress, before examining the contracts and private affairs of the defendant corporations. This, I trust, will be carried out in good faith; but nothing was agreed as to the witnesses to prove the grievances. Overt acts were first to be established. This can and should be done by witnesses who have seen or suffered from the acts. To Mr. Campbell I said there was no objection to calling the officers of the Atlantic and Great Western road, a foreign corporation. I desire to deal courteously with our own, but the Commonwealth ought to first call their witnesses who know actual transgressions, and not intentions.

GEORGE LEAR.

The following was also received:

HARRISBURG, PA., *January 7, 1879 (received 3.57 p. m.).*

E. G. PATTERSON:

The attorney-general says that he has no agreement or understanding with any one, except Messrs. Shiras, Sherman, and Campbell.

J. F. HARTRANFT.

The witnesses, John D. Archbold and Jacob J. Vandergrift, president of the United Pipe Lines and a director of the Standard Oil Company, refused to answer any material questions put to them, under instructions from the counsel of the Pennsylvania Railroad Company. The master had no power to commit for contempt, and so decided, and all that could be done was to have the questions and refusal to answer certified to the court for its action.

It came, therefore, to be understood that the Commonwealth must make out its case as best it could, without calling any person connected with the railroads or the Standard combination. When it is remembered that the manner of doing the business, the amount of rebates given, and the persons to whom they were paid, as well as the circumstances attending the transaction and the contracts under which the system was originated, were entirely within the knowledge of the officers and agents of the combination, and had been studiously concealed, the difficulty of establishing by legal evidence the allegations in the bill will be readily perceived.

The case was nevertheless proceeded with as far as it was possible, and many of the most material charges of the bill sustained. While the testimony was in progress, it was fortunately ascertained that the Pennsylvania Railroad Company had shipped petroleum over a portion of the Reading Railroad, and that monthly statements were rendered to the latter, showing the amounts of rebates and system of allowance. A subpoena was promptly served on Daniel Jones, assistant controller of the Reading Company, and he appeared before the master and produced statements in connection with his testimony, which, for the first time, admitted light upon the extent of the robbery.

March 5, 1879, while the master was hearing the case of the Pennsylvania Railroad Company in Philadelphia, the defendant made application for postponement on account of the absence of one of its counsel, which, as there were two present, was refused by the master. On the same day, however, a telegram was received from Governor Hoyt adjourning the case.

A committee, including the president of the council, immediately went to Harrisburg, called upon Governor Hoyt, and the case was allowed to proceed. The testimony of A. J. Cassatt, third vice-president of the Pennsylvania Railroad Company, was taken; the contract, in the form of letters, between the defendant company and the Standard Oil Company was produced, together with vouchers, showing payments of rebates under it of large sums, and, among others, of over \$68,000 to the American Transfer Company, which had been pulled from its hole and ascertained to be the middle absorber between the railroads and the Standard combination.

And so, on the 3d day of May, 1879, the Commonwealth closed its case against the Pennsylvania Railroad Company, reserving only the right to recall at some convenient time A. J. Cassatt and Jefferson Justice for brief examination as to some matters omitted.

On the 11th of July the counsel of the plaintiff and respondent filed with the master an agreement that the time of taking testimony by the defendants should be extended to September 10, 1879, and should then be closed within ten days. Had this agreement been carried out, the cause could have been heard by the court at the ensuing fall term probably, and at January term without doubt.

But, having procured another extension until September 17, the defendant then applied for further time, and gave such reasons as to the sickness of principal counsel that the master granted a continuance; and, on account of the coming on of the term of the supreme court, of which he was prothonotary, it was of necessity, if given at all, until after that term. The time was therefore fixed for December 10, 1879, for the defendant to proceed and close the testimony.

On the 10th of December, 1879, John H. Hampton, esq., one of the counsel for the defendant, appeared before the master and stated that he had received a dispatch from Governor Hoyt stating, in substance, that the governor had directed Attorney-General Palmer to notify George Shiras, jr., esq., attorney for the Commonwealth in the five equity discrimination cases, that the defendants in those cases would not be required to take or close their evidence until the Commonwealth had closed its evidence in all those cases, and, such being the fact, he (Mr. Hampton) would be ready to proceed with the testimony on the part of the Pennsylvania Railroad Company in No. 311, October and November term, 1878, when the order of the governor, as above stated, had been complied with.

In other words, Governor Hoyt had ordered the attorney-general to stop proceedings against the Pennsylvania Railroad Company, the case of the Commonwealth being closed, until the testimony in the other four cases had likewise been closed by the Commonwealth.

To those unacquainted with the circumstances, the full effect of this order would not be at first plain. That this may be fully understood, it is necessary to consider, as briefly as possible, the other pending cases, and relate the efforts that were made to bring them to a close. These cases were (1) a bill in equity against the United Pipe Lines; (2) a like bill against the Lake Shore and Michigan Southern Railway Company; also (3) against the Dunkirk, Allegheny Valley and Pittsburgh Railway Company, and (4) against the Atlantic and Great Western Railroad Company.

Of these, the Lake Shore Company had its offices, books, papers, accounts, and officers, outside the State of Pennsylvania. The Dunkirk, Allegheny Valley and Pittsburgh, though chartered by the State of Pennsylvania, was owned and controlled by the New York Central, its stock being held by the Vanderbilts. It was a feeding line to that and the Lake Shore. Its officials and accounts were at Dunkirk, in the State of New York, and in the offices of the New York Central and Hudson River Railroad Company. The Atlantic and Great Western was in the hands of John H. Devereux, receiver (*de facto*), who lived in Cleveland. This company held its charter from the States of New York, Pennsylvania, and Ohio, and while it kept a principal office in Pennsylvania, yet the

information most desired could be obtained only from Devereux and his immediate employes at Cleveland. The receiver had been joined in the bill filed, and had demurred upon the ground that the supreme court of Pennsylvania had no jurisdiction over him, and he was accountable only to the court which appointed him, which turned out to be one of the county courts of Philadelphia. His appointment dated back to 1874, and the company answered that it had done nothing, the management of its affairs being in the hands of the receiver, Devereux. This case developed what seem to be a defect in the law, for, while the receiver, as was claimed, could operate several hundred miles of railroad, with all its equipment, and exercise all the powers of the corporation, including eminent domain, yet in the discharge of the public duties thereof, such as those of a common carrier, he was amenable to no jurisdiction save that of a county court of Philadelphia County, through which, or within three hundred miles of which, the railroad did not pass. According to this theory of the defendant, the Commonwealth of Pennsylvania and her highest court were practically powerless.

The United Pipe Lines was a Pennsylvania corporation, and its officials and employes could be reached. But, under the order of Governor Hoyt, failure of the Commonwealth to close its testimony in any one case, and thereby put itself on record that the cause had been made out, was sufficient to forever suspend proceedings in that of the Pennsylvania railroad.

It was simply an impossibility to make out a case against all of these defendants unless they would appear before the master and give evidence. All of these circumstances were freely made known to Governor Hoyt early in the year 1879, and all the reasons were given him why the Pennsylvania Railroad case was pressed. It was particularly impressed upon him and the attorney-general, that the witnesses in this case were within reach of process, and the others, except in the Pipe Line case, were not. It may be said that this difficulty could have been met by withdrawing the suits against all the companies except the Pennsylvania Railroad and the United Pipe Lines; but it had been particularly insisted at the beginning that the Pennsylvania Company should not be attacked alone, but that all offending should be placed upon equal footing.

This continued to be insisted upon throughout the proceedings, as will appear more fully hereafter.

Impossible as it seemed to be to comply with Governor Hoyt's order, yet an effort was made, and, in fact, proceedings had already been to some extent pressed, and why not further pressed will appear.

A day having been fixed by the master for a hearing in the Atlantic and Great Western Railroad case, the treasurer, auditor, and some clerks were subpoenaed, and certain statements were called for. On the day of hearing the witnesses appeared, but all declined to answer every material question put to them. Application was made to the supreme court to compel these witnesses to answer, which was refused in June, 1879, on the ground (as was understood) that the demurrer of Devereux, receiver, was still undisposed of. An effort was made to proceed with the cases against the Lake Shore and its feeder, the Dunkirk, Allegheny Valley and Pittsburgh, but no arrangement could be made by which the companies would agree to furnish any facilities for obtaining evidence. The policy of evasion of process, disregard of subpoenas, and suppression of evidence had become fully developed, and was apparently being carried out with concert of action and singleness of purpose by all the confederates and their allies charged with the conspiracy.

It having become impracticable to carry on the proceedings against the railway corporations, it was determined to proceed against the United Pipe Lines and bring that case to a close.

On the 7th of January, 1879, Jacob J. Vandergrift, president of the United Pipe Lines and a director of the Standard Oil Company, was called as a witness in the case against the former company, and refused to answer any material question put to him.

On the 4th of April a further hearing was had and continued from day to day. John R. Campbell, treasurer of the United Lines, was put upon the witness-stand and examined. He refused to answer questions relative to the ownership of stock in the United Company and many other questions. These were certified by the master before the Hon. John Trunkley, one of the associate justices of the supreme court, who, after argument on the 16th and 17th of April, directed the witness to answer the most material. Thereupon the master appointed the 29th of April to proceed with the cause.

On the evening of the 28th of April one of the counsel for the United Lines went before the Hon. J. P. Sterrett, one of the associate justices of the supreme court, at Pittsburgh, and procured an order from him adjourning the hearing before the master one week on account, as alleged, of the other engagements of counsel. As there was an argument fixed in the Atlantic and Great Western case at Harrisburg, requiring the attention of counsel, it was considered best to have the next hearing for the 14th of May, and it was so fixed.

On the 9th of May, 1879, one of the associate counsel for the Commonwealth had an interview with Governor Hoyt and Attorney-General Palmer, at Harrisburg, relative to the situation of the oil suits, in which the fullest discussion was had and all details entered into. As it will be necessary to refer to this interview again, it is mentioned here only as to its bearing upon the suit which was then being pressed against the United Pipe Lines. Attorney-General Palmer said that within any reasonable bounds the counsel present and his colleagues had *carte blanche* to do as they chose in the conduct of this and the other cases.

On the evening of the 13th of May, 1879, a telegram was received from Attorney-General Palmer, saying, in substance, that bitter complaint was made that the suits of the Commonwealth in equity would be used to obtain testimony that would prejudice the defendants under indictment, and that he (the attorney-general) was inclined to defer the taking of testimony until after the August term of court in Clarion County; that so much should be accorded to fair play, and the action of counsel in so doing would be justified as matter of professional conduct. Being fully informed of the repeated refusals to answer, evasions of process, and schemes for delay, long before there was any indictment against any one, the following reply was sent:

"The complaint made is totally groundless and without sincerity. The only two persons whose testimony is wanted and who are indicted, it is believed, absented themselves from the State purposely to avoid testifying. I will, however, follow your instructions, if now repeated, though believing the excuse of these men to be a false pretense. Please answer."

To this the attorney-general replied on the morning of the 14th of May, 1879:

"If any of the indicted persons are present, agree with them to appear immediately after August sessions, on condition that their examination be deferred to that time. I think it best under the circumstances."

Accordingly the further hearing of the case of the United Pipe Lines went over until after the fourth Monday of August, 1879, the time referred to.

It thus became evident that the defendants or some persons in their interest were in communication with the Commonwealth's representative at Harrisburg for the purpose of delaying the suits upon any possible pretext. During the whole of this time several persons for whom subpoenas were issued, or whom it was supposed would be called upon to testify, remained persistently beyond the boundaries of Pennsylvania, and some even had sudden business in Europe and foreign lands. The American Transfer Company, which had been ascertained to be the intermediate sponge to absorb the rebate robberies, had had for some time a general office in Oil City. Who its officers and stockholders were no one knew, except that Jabez A. Bostwick, of New York, claimed to be president, Daniel O'Day, manager, and W. T. Branch, clerk in charge of its office. W. T. Branch left suddenly, and the office was closed. Daniel O'Day, though in active management of his department, found the line of the Erie Railway, at Olean, in the State of New York, a most convenient base of operations, and that it was unnecessary for him to cross the line into McKean County, Pa., except on Sundays.

It will thus be seen that for one reason or another the hands of the associate counsel engaged in the conduct of these cases were tied, and the full effect of the order of Governor Hoyt of December 10, 1878, stopping further proceedings in the Pennsylvania Railroad case, is made manifest. All the equity proceedings were stopped by a power which the general council of the producers of petroleum were unable to resist.

Before entering upon the consideration of the final proceeding it will be well to refer to certain negotiations, originating in May, 1879, though they are neither the transactions of the council, nor directly connected with the conduct of the suits instituted.

At the time referred to it had come to be rumored that the railroad companies would not be averse, under certain conditions, to throw off the Standard yoke, and were desirous of affecting an adjustment of the oil freight difficulties. These rumors soon assumed such shape that they amounted to assurances, and came apparently from such sources as to demand the attention of the producers' representatives. Negotiations were therefore opened with as much directness as possible, and assurances were given that if all the railroad companies could be put upon equal footing, and all could be either compelled or caused voluntarily to agree to abandon the rebates on oil freights and preferences as the Standard combination, it would be satisfactory to all. To this end, after consultation, it was determined to ask the interposition of Governor Hoyt and the attorney-general in the bringing of additional bills of equity against all the companies carrying petroleum from the oil regions, in order that all might be enjoined from giving rebates or discriminating in favor of one shipper or one locality as against another.

At the interview of counsel with Governor Hoyt and Attorney-General Palmer, on the 9th of May, 1879, before referred to, this subject was fully discussed. The governor said if this was the disposition of the railroad companies it was the most favorable indication he had seen, and he would hope from it the only practicable and effective solution

of the difficulty. The governor also said that there were great difficulties, and questions of policy necessarily entered into the affair, and the average Pennsylvanian would not be willing that the Pennsylvania Railroad Company should be enjoined from allowing rebates, while the New York railroads were in a position to seize the traffic by continuing the system. The force of this was admitted, and the opinion expressed that all the trunk lines should be placed in the same position, and that in the condition of developments of territory and location of pipe lines at that time it was doubtful whether the enjoining of the Pennsylvania alone would give relief to the oil country or be of public benefit. The relations and functions of the American Transfer Company in connection with the combination were explained, and it was asked that proceedings be commenced against the company (probably by *quo warranto*), and also against the Erie Railway Company and the Baltimore and Ohio Company, while the United Pipe Line case was to be vigorously pressed, in order that the railroads might not lose their oil traffic by its power to divert it from one railroad to another. The plan was deemed practicable and just, and the attorney-general requested the counsel to prepare and send to him a letter embodying his views and giving him full information as to the geographical position of the pipe lines and the railroads, in reference to the oil producing region.

Accordingly, a letter was prepared and sent to the attorney-general, with a map showing location of all the pipe lines and shipping points. Additional bills in equity were also prepared and sent to the attorney-general, so that they could be presented to the supreme court, then sitting in Harrisburg. No reply whatever was made by the attorney-general to the letter, and no acknowledgment of the receipts of the bills. The deputy attorney-general, in reply to a telegram asking about them, telegraphed that the attorney-general was not at home. The supreme court concluded its term soon after, and in this discourteous and contemptuous manner was terminated this effort of the producers' counsel to carry out the views of the governor and his attorney-general, and bring the difficulties of the producers to an end.

The suits already pending, and those which it was intended should be brought, were for the purpose of obtaining decrees of a court restraining the carrying companies from oppressive discriminations in freight rates and facilities for transportation. These decrees could be enforced, and if obtained and enforced would have had all the effect as to the petroleum traffic of a law regulating commerce between the States.

During the spring and summer of 1879 the condition of the oil trade grew worse. Production increased, prices declined, and the Standard combination put forth all its power to make worse that which was bad enough. The immediate shipment swindle was in full operation. Tankers were denied storage and transportation. An attempt was made to enforce the prepayment of pipeage of 20 cents per barrel on all oil as soon as certificates were issued for it by the pipe line.

About the 1st of June the Tide-Water Pipe Company completed its line and began to transport and store oil. This line extended from the McKean County field to Williamsport, about 100 miles, and there connected with the Reading Railroad to the sea-board, making a continuous independent outlet.

To crush this opposition, and, as expressed by Rockefeller, "to handle the producers without gloves," a new combination was entered into about the 1st of June, at Niagara Falls, between all the railroad companies engaged in conveying petroleum and the Standard party. The latter took high ground, and claimed that they had demonstrated their ability to control the business; that they had the power; that the producers were impoverished, divided, and irresolute; that the suits pending would amount to nothing; that the Tide-Water Line was financially weak, and that if the railroads would accede to the demands of the Standard they would in thirty days crush all opposition. Their plan was simple. It was that the United Pipe Lines should reduce local pipeage charges to 5 cents per barrel, and the railroads, through rates from the wells, to about 30 cents, and by doing business for nothing, starve out the Tide-Water Line, and those refineries which obtained their crude stock from it. All but one company, the Baltimore and Ohio, acceded to the demand, and the new combination went into operation. The thirty days not sufficing to accomplish the desired object, the time was extended from period to period to November, 1879, during which time these great railroad companies lent themselves to the demands of their master at ruinous loss for the mere purpose of building up the power of the Standard combination. One by one, however, they became sick, and at last there remained willing to be plundered only the Erie Railway.

While these things were happening occasional spasms of resistance seized the producers, and meetings were held, some of them in front of the United and Standard offices in Bradford. Some were tumultuous; others quiet. Obnoxious persons were hung in effigy, and processions of masked men marched the streets, and groaned and hooted in front of Standard newspaper office and the business places of the combination. Some secret societies were said to have been organized, having, however, no connection with

the producers' unions or council, and in the morning the streets and sidewalks were frequently found placarded with cabalistic signs and letters, and occasionally printed proclamations and warnings. Most of the leading newspapers of the region had been either absolutely purchased by the Standard party or paid to keep silence. Others occasionally broke forth in violent articles advising the use of force. But this was promptly rebuked by the president of the council over his own signature.

A glance at the effect in other States of the producers' movement necessarily forms a part of the history of the time.

In the State of New York the New York Chamber of Commerce procured a legislative investigation, which began in the winter of 1879 and continued until the fall. Its result was three volumes of remarkable testimony upon the subject of railroad discrimination and railroad policy and management; a definite understanding of the claims of those corporations, and of the issues the people made up against them; a report condemning their acts, and recommendation for additional legislation for their control.

In the State of Ohio a similar investigation was ordered by the legislature, at the instance of refiners and transporters of petroleum in that State, whose business had been ruined by the Standard combination. This the Standard easily smothered. It resulted in nothing, and was as ridiculous a farce as that of the secretary of internal affairs in Pennsylvania in 1878.

It was evident, however, that the disclosures made by the testimony elicited in the producers' suits had aroused and astonished thinking men throughout the country, and the independent press everywhere attacked the methods of the conspirators, and unsparingly condemned them.

The numerous interferences with the producers' suits and delays in their prosecution had gradually undermined their confidence in them as remedies for their ends. They saw that the monopoly was in no way terrified, but that during the pendency of the legal proceedings it had doubled its exactions and grown bolder. It was considered by some as a sign that the combination felt themselves to be masters of the situation, and the producers saw before them interminable litigation and barren results. Public confidence began to be undermined in the State administration, and it came to be believed by many that for months the prosecution of the cases had received no aid, and whenever the authorities had interfered all the effect was to delay them. The attorney-general of Governor Hartranft's administration had announced that no money could be applied to payment of witnesses, stenographers, and the master, in the equity suits, or for serving subpoenas. Whatever funds were to be provided for their purposes must be raised by private subscription, and in the impoverished condition of the country this was found to be a matter of daily increasing difficulty. Appeals were made and various measures proposed to furnish means. The legal counsel, who were giving their time to the cases, said they would be content to wait without fees if the necessary means were furnished to pay the actual and necessary expenses of procuring testimony. This difficulty existed from early in the winter of 1878 and 1879, and increased during the whole of the last year.

We have now considered the general situation of the trade, the effect that the producers' movement had had away from the locality of northwestern Pennsylvania, the attitude of the State authorities towards the producers and their interests, the manner in which all the several cases had been delayed and interfered with, their conduct up to the point where they were stopped, and the feeling in the country among the producing class. With the institution of the prosecution for the crime of conspiracy against the individuals prominently connected with the Standard monopoly, the manner in which it came to an end, and the conclusion of the terms by which all legal proceedings were dropped, and the spirit with which the contracts entered into were accepted, this narrative will be concluded.

It had long been the opinion of the legal counsel acting for the producers that the combination that had been entered into, the manner in which it had been consummated, and the unlawful acts by which individuals were oppressed constituted a criminal conspiracy indictable at common law, and perhaps coming within the prohibition of the statutes of Pennsylvania. In coming to the conclusion that these men should be indicted, however, great professional caution was exercised, and the utmost care exercised that this step should not be taken until the evidence fully justified it and was such as to reasonably insure conviction. How far the criminal combination reached, and who were actually guilty members of it, and what had been its full purposes, was not known in detail until the taking of the testimony of A. J. Cassatt and other railroad employes in February and March, 1879. This step seemed after that to be imperatively demanded, and, accordingly, on the 22d day of April, 1879, a full consultation was had between several members of the committee on legal remedies and all the immediate counsel of the producers.

All were agreed that the evidence was sufficient to warrant the institution of the prosecution. A difference of opinion arose upon the question whether the railroad officials should be included or not. In view of the attitude of the railroads at this particular time, and of the fact that they professed the greatest desire to get rid of Standard domination, and were loudly asserting that they had been victimized and compelled at times to carry oil freights at less than cost, all of the council and all but one of the committee were of opinion that the stronger case could be made out against the Standard party alone, and that it was best to omit from the proposed indictment the names of such men as A. J. Cassatt and Thomas A. Scott. They might be guilty and might not. But as to the others there was little doubt. The dissenting member of the committee formally withdrew, and thenceforth took no part in any proceedings, and his place upon the committee on legal remedies was filled with another. Immediately upon the conclusion being reached an information was prepared and warrants issued. The County of Clarion had been selected within which to begin the prosecution, for the reason that it was found, after careful investigation, that more overt acts of the alleged conspirators had been committed in that county than in any other one of all those in which the alleged conspiracy had been carried on.

On the 20th day of April, 1870, the grand jury of the County of Clarion found an indictment against John D. Rockefeller, William Rockefeller, Jabez A. Bostwick, Daniel O'Day, William G. Warden, Charles Lockhart, Henry M. Flagler, Jacob J. Vandergrift, and George W. Girty. Girty was the cashier of the Standard Oil Company. There were eight counts in the indictment, and charged, in brief, a conspiracy for the purpose of securing a monopoly of the business of buying and selling crude petroleum, and to prevent others than themselves from buying and selling and making a legitimate profit thereby; a combination to oppress and injure those engaged in producing petroleum; a conspiracy to prevent others than themselves from engaging in the business of refining petroleum, and to secure a monopoly of that business for themselves; a combination to injure the carrying trade of the Allegheny Valley and Pennsylvania Railroad Companies by preventing them from receiving the natural petroleum traffic; to divert the traffic naturally belonging to Pennsylvania carriers to those of other States by unlawful means, and to extort from railroad companies unreasonable rebates and commissions, and by fraudulent means and devices to control the market prices of crude and refined petroleum and acquire unlawful gains thereby.

The origin of the conspiracy was supposed to be meetings of nearly all the persons named in Philadelphia in the summer and fall of 1877, followed by continued overt acts by all in several counties of the Commonwealth, and particularly in the County of Clarion, in which all the several branches of the petroleum business had been carried on.

John D. Rockefeller, William Rockefeller, Jabez A. Bostwick, Charles Pratt, and George W. Girty were non-residents of the State of Pennsylvania, and though all of them except, probably, Girty had been at times in the State, engaged in furthering the objects of the combination, yet it was believed that they would not voluntarily appear and give bail or stand trial. Daniel O'Day had business out of the State, but afterwards appeared in court and gave bail for his appearance. Warden, Lockhart, and Vandergrift, citizens of Pennsylvania also gave bail.

The cases went over necessarily to the August sessions, 1879.

In the first part of June, 1879, formal application was made to Governor Hoyt, of Pennsylvania, to issue a requisition upon the governor of New York for the extradition of the two Rockefellers, Flagler, Bostwick, O'Day, Pratt, and Girty. The governor received notice that counsel desired to be heard in opposition to the application, and on the 27th day of June, 1879, a full argument was made before the governor, the attorney-general, and Matthew S. Quay, secretary of state.

The Commonwealth alleged that the requisition should issue for the reasons that the defendants were indictable in any county in the State where they had committed, by themselves or agents, overt acts in furtherance of the conspiracy charged, even if that conspiracy had been concocted in another State or in a foreign country. And that if they had come into the State for the purpose of doing any acts in aid of the criminal confederation, or putting in motion the machinery to be operated under their direction in furtherance of the conspiracy, and they had then left the State, they were "fugitives from justice" within the meaning of the Constitution and laws of the United States. The defendants contended that it must appear to the governor that (1) they were in the State of Pennsylvania when the crime was committed, and (2) that they fled from the State to avoid a prosecution.

This construction of the law would prevent the extradition of a citizen and resident of Ohio, never having been in Pennsylvania, who, standing in that State should shoot and kill across the line, between the States, a citizen of the Commonwealth of Pennsylvania, sitting at his fireside in the latter State. The governor concluded to hold the matter under advisement. The attorney-general was not well. No decision was made,

On the 29th of July Mr. B. B. Campbell, president of the council, telegraphed to Governor Hoyt asking an immediate decision. To this the deputy attorney-general replied that Palmer was sick. To this Mr. Campbell answered that he should resort to the press as a means of communication with the governor, by an open letter. To this the deputy attorney-general replied: "No answer can be now given to you because no decision will be rendered until the examination now commenced is ended." That this was a refusal to decide the matter of the requisition either way was plain. What was meant by saying that "no decision would be rendered until the examination now commenced is ended" was an enigma. The only "examination commenced" that the prosecutors of the legal proceedings knew of, was that of witnesses in the civil cases, and this as we have seen had been at that time stopped, except in the Pennsylvania Railroad case, and that was promptly blocked when the usual artifices for delay had been exhausted. Whatever was meant it is certain that Governor Hoyt never granted the requisition asked for, and never made public any decision he had arrived at relative to it, nor gave any reasons why he had or had not granted it. The application for extradition of indicted criminals was allowed to die without any diagnosis of the fatal disease, but we hope not without a *post mortem* examination that will reveal the secret malady to be guarded against when a wealthy and powerful malefactor, in league with powerful corporations, is sought to be brought to justice.

At the August sessions of the court of Clarion County the defendants applied for a continuance, and it was apparent to the court and the prosecutors that if the conspiracy case was tried at any regular term, it would be necessary to postpone all other business. It was therefore decided to appoint a special court for the trial of this case alone, and the defendants who had appeared, having at the suggestion of the court entered the plea of "not guilty," the 28th day of October, 1879, was fixed for the trial, and the prosecutors began immediate preparations. On the 16th of September the defendants applied to the court for a bill of particulars as to evidence to be offered in support of each count of the indictment. The court granted the application.

About the 1st of October, 1879, the defendants professed to be willing to make a satisfactory proposition of settlement with the producers represented by the general council, and were apparently so desirous of an arrangement that they were asked to submit a proposition covering the abandonment of the causes of complaint. This it was agreed should be done, but they contended that from the magnitude of the questions involved, and the time necessary to be spent in their consideration, it would be impossible to give them necessary attention and at the same time go on with the preparation of their defense for the coming trial on the 28th of October. Moved mainly by the difficulty of raising funds (of which there were none) to meet the expenses of the trial, as well as by some belief in the sincerity of the defendants' professions, it was agreed between counsel that, subject to the approval of the court and district attorney of Clarion County, the cause be continued from the 28th of October to the third Monday of December (the 15th), and not later than sixty days from October 28, 1879, all recognizances to be renewed, and all subpoenas to be considered returnable at that time. Upon presentation of this paper the court continued the cause and fixed December 15, 1879, for the trial.

No definite propositions were made, and practically nothing was done by the defendants towards carrying out their proposed arrangement until about November 29, 1879, when a meeting of an authorized committee with the Standard party was requested in New York City. This meeting was promptly declined, for the reason that there had been so great delay in making any propositions, and the defendants were informed that any further propositions must be made through their counsel. Active preparations for the trial accordingly progressed on the part of the Commonwealth. On the part of the defendants, however, no great anxiety appeared, and one of them said with confidence that the case would never be tried.

On the 13th day of November a very full bill of particulars had been served on the defendants' counsel, in which it was attempted to give, so far as possible, all the details of evidence going to show their guilt of the offenses charged in the indictment. Thereupon the defendants applied to the court for a continuance until a further bill of particulars was filed, alleging that they were, if possible, more in doubt as to what they had done than before. The court held the bill of particulars amply sufficient. On the 23d day of December, 1879, the defendants presented a petition to the Hon. E. M. Paxson, one of the justices of the supreme court, praying for a writ of certiorari directed to the court of quarter sessions of Clarion County, requiring that court to forthwith return the record and all the papers and proceedings in the conspiracy case, and that upon the return of the writ of certiorari the supreme court would proceed in accordance with law to the ultimate trial, decision, and determination of the case.

Thereupon Judge Paxson filed the following order:

"Under the late constitution the power to allow this writ was clear. As this is the first case that has arisen under the new constitution, and the court in banc has not

yet passed upon its powers under it, I will at present allow only a rule to show cause. This will give a speedy hearing in this court, and at most delay proceedings in the court below but a few weeks, should said rule be discharged.

"A rule is accordingly granted to show cause why a writ of certiorari should not issue, as prayed for, returnable before the supreme court in banc, on Monday, the 5th day of January next, at 11 a. m., in the city of Philadelphia."

The petition upon which this order was granted charged local prejudice against the defendants in the county of Clarion, and that a fair trial could not then be had. It also charged partiality on the part of the president judge and associate judges; alleged that there were secret societies composed of "chapters and lodges" throughout the oil region, the members of which were hostile to them, and these members were about 3,000 in number. It also recited the fact of the pendency of civil proceedings, and that the complainants had not yet closed their testimony therein.

The petition was presented without any notice to the district attorney or the prosecutor or any of the associate counsel. The order was at once served on the district attorney and the president judge of the quarter sessions of Clarion County.

To this petition an answer was immediately prepared, and an argument, in which the positions taken were:

1. That although, under the constitution of 1838, the supreme court had the right to remove such causes from the lower courts for trial before the former, yet that jurisdiction had been exercised with great reluctance, and in every instance with expressions of disapprobation and dissent, and that whenever the court had so removed criminal cases, the result was generally the escape of the indicted party, not only from punishment, but from trial.

2. That by the third section of article 5 of the constitution of 1874, which superseded that of 1838, all original jurisdiction in such cases had been expressly taken away and appellate jurisdiction alone given to the court, and by section 23 of article 5 provision was made for removal of criminal causes to the supreme court for review, only after conviction and sentence. Furthermore, by section 21 of article 5 the court of nisi prius was abolished, and it was declared that no court of original jurisdiction, to be presided over by any one or more of the judges of the supreme court, should be established.

3. That to remove the record and proceedings by writ of certiorari would be to end the case without trial, because the court below could not then proceed and the supreme court could not, for there was nothing to review and nothing to do but to try, and from this the supreme court was prevented, because by the express terms of the constitution it no longer had the original jurisdiction, without which it could not order a jury or proceed in the manner prescribed by common or statute law to conviction and sentence.

The defendants argued that the writ of certiorari was not an original writ, and hence the issuing of it was not the exercise of original jurisdiction, but throughout the able presentation of the cause no attempt was made to show to the supreme court that it could try the defendants for the crime whereof they were indicted, either in banc or by one of its judges.

On the day fixed for trial in Clarion County, December 15, 1879, the Commonwealth was ready with her witnesses and proposed to proceed. The counsel for the defendants presented Judge Paxson's order of December 11, and asked leave to file it among the papers of the case, and sat down. The Commonwealth counsel read the petition, and argued that inasmuch as the order did not stay proceedings the case should go on. But Judge Jenks decided that whatever might be the legal effect of the order intended or expressed, courtesy required that he should continue the cause, and he ordered it for trial on the third Monday of January, 1880, and directed the defendants and witnesses to enter into recognizance for their appearance at that time. As soon as this was done one of the defendants' counsel read the affidavit of himself and an associate, in which they complained that at the August sessions previous the court had compelled the defendants to plead against their protest, and in the absence of the defendants and without opportunity for consultation. This gave rise to a most unpleasant scene, and the president judge, speaking from the bench, took direct issue with the counsel for the defendant upon the facts they presented. His cross-examination of them was vigorous and pointed, and left the impression that the judge was right and the counsel wrong. Upon this affidavit leave was asked by the defendants to withdraw their plea of not guilty. The object of this was to enable a motion to be made to quash the indictment and thus still further delay trial. The court refused to allow the plea to be withdrawn.

Immediately thereafter a heated newspaper controversy arose, in which the counsel attacked Judge Jenks with bitterness, and brought prominently forward the issue of veracity.

No one who knew the facts ever doubted the entire fairness, integrity, and impartiality of Judge Jenks. Nor did any one doubt that the proceedings before him and the news-

paper war upon him were parts of a desperate and unprincipled warfare, the object of which was to create such a state of feeling as would give the defendants some ground upon which to stand. During those proceedings the Standard newspaper organs teemed with violent diatribes against the prosecutors and arguments in favor of the position of the indicted criminals.

The Bradford Era, the Oil City Derrick, the Titusville Herald, in the oil region, and the Philadelphia Daily Times, a well-known organ of the Pennsylvania ring, the Philadelphia Evening Telegram, Railway World, and others contained articles relating to the proceedings pending, showing bias in favor of the defendants, and evidently intended to produce an effect upon the court and the public.

A pamphlet was printed containing alleged fac-simile extracts from newspapers, showing violent feeling against the Standard. One of these was found, on the day of the argument before the supreme court (January 5, 1880) in the hands of a reporter of legal cases for one of the legal journals. It was printed with close resemblance to the paper books handed up to the court, but no copy was served upon the counsel for the Commonwealth before the argument.

On the 5th day of January, 1880, the counsel for the Commonwealth appeared before the court, and asked that it hear the argument upon the rule to show cause. The defendants' counsel served a printed argument upon the Commonwealth's counsel on the morning. The former were also furnished with a copy of the answer and argument of the Commonwealth.

Thereupon the defendants promptly made application to the court for a continuance, on the ground that they had only that morning been served with a paper book.

The court was composed of six judges, the newly-appointed Justice Green not having as yet taken his seat. The motion to continue was affirmative, and a majority of the six was necessary to enable it to succeed. The court apparently divided equally, three being in favor of continuance, and three in favor of hearing the case. The motion to continue therefore failed, and the argument proceeded, and the court reserved its decision.

On the following Thursday (the 8th of January, 1880) the court filed an order that the rule be re-argued, before a full bench (seven judges), and that until it is finally disposed of proceedings in the court below be stayed. The conclusion from this order would be that the judges had again divided in opinion upon the question of the constitutional right of the court to remove the cause for trial from the quarter sessions of Clarion County.

Thus practically terminated the last legal proceeding conducted by the general council of the producers of petroleum.

A requisition had been denied for some of the principal offenders, a disgraceful attack had been made upon the court that was to try their case, widely-circulated newspapers had been induced to advocate their cause when a proceeding was pending before the highest court of the State; and an order had been made staying proceedings in the cause until argument could be had before a full bench, and the judge necessary to so constitute the court was reported sick, and the time he could take his seat was unknown.

On the 24th of December, 1879, the United Pipe Lines saw fit as matter of policy to exhibit a sign of repentance, and issued an order in which they announced the abandonment of the immediate-shipment swindle throughout the region, and that it would receive oil without requiring its "immediate removal," and would issue acceptance for all oil received.

It remains only to consider the negotiations which terminated in the contracts between the Standard combination, the Pennsylvania Railroad Company, and Benjamin B. Campbell, as president of the council, and the dismissal by agreement of all the several legal proceedings. Before entering upon them, and during their progress, the fullest consultation was had with many prominent producers, as well as with members of the legal committee.

A few days after the continuance of the conspiracy case at Clarion, December 15, 1879, one of the legal advisers of the defendants telegraphed for a meeting with one of the counsel of the producers, and speaking, as he said, by authority, proposed a general settlement of all controversies upon the basis of an abandonment of all those methods of doing business by the Standard by which the producers claimed to be injured in their business.

Several days were occupied in negotiations and correspondence, but nothing definite was arrived at. Finally it was agreed that the two should meet at the Fifth Avenue Hotel, in New York City, on the 7th day of January, 1880, at which time a written proposition should be authoritatively made upon the basis of the conversations had, and by which the Standard party should agree to abandon the perpetration of the wrongs complained of. Accordingly the meeting was had, and a written proposition submitted, which was in terms all that could have been asked, except that the Standard claimed the right to take whatever rebate "the railway companies were at liberty to give to other shippers."

This part of the proposition was objected to. Upon the producers' side it was claimed that a mere contract in writing, with no provision for enforcing it, was of no value, and that there should be decrees entered in the cases pending, and in such others as might be necessary to bring.

The consideration of this question led to disagreement. Whether or not the Standard would have yielded this point we do not know, but we believe they were strengthened in their determination not to do so by the order of the supreme court of January 8, 1880, pending the negotiations.

After this it was considered impracticable to secure this advantage, and, though still further effort was made at a subsequent meeting in Philadelphia, the contract was executed in the form hereafter given.

Contemporaneously with these negotiations the Pennsylvania Railroad Company agreed to enter into contract, given hereafter, and to procure a similar agreement from the other oil-carrying railroad companies. This last it failed to do.

At the termination of the negotiations as to the form of the agreements it was considered advisable to require the Standard combination to pay the expense of the litigation to which they had subjected the producers, and after some time it was agreed that the sum of \$40,000 should be paid, to be applied as follows:

1. To the payment of costs remaining unpaid, for which the general council or its committees or members might be liable upon any of the legal proceedings pending.
2. To the re-imbursement to any individuals of sums contributed by them to the fund of the legal committee for expenses of conducting the several suits and prosecutions.
3. To the payment of the fees of counsel.
4. The surplus, if any, to be returned to the Standard Oil Company.

The contracts were then signed, and the necessary formalities taken to dismiss all of the suits in equity, the *quo warranto* proceeding, and the conspiracy prosecution, all of which things were finally done on the 14th and 16th days of February, 1880, and on the 19th day of February the application for a requisition was withdrawn by the following letter:

TITUSVILLE, February 19, 1880.

To his Excellency Henry M. Hoyt, Governor of the Commonwealth of Pennsylvania :

SIR: As prosecutor in the case of the Commonwealth vs. J. D. Rockefeller, No. 25, April sessions of Clarion County, I consent to the withdrawal of the requisition asked of you for extradition of J. D. Rockefeller *et al.*, the same having been in your hands undecided since July last, and a *nolle prosequi* having been entered by leave of court of Clarion County in the case, and I will request William L. Hindman, esq., the prosecuting attorney, to forward a formal withdrawal.

Your obedient servant,

B. B. CAMPRELL.

A meeting of the general council was had, pursuant to previous call of the president, at Titusville, on the 19th day of February, 1880, and for the first time in many months there was a large attendance.

The president reported to the council the withdrawal of the suits, the reasons therefor, and the terms he had been able to exact as the conditions of his action. There was full discussion and explanation of the contracts, which were read, and are given herewith in full:

CONTRACT WITH STANDARD COMBINATION.

Articles of agreement made the 29th day of January, 1880, by and between the Standard Oil Company, a corporation of the State of Ohio; the Standard Oil Company of Pittsburgh, a corporation of the State of Pennsylvania; the Imperial Refining Company (limited) of Oil City, Pa.; the Acme Oil Company of New York and Pennsylvania; the Atlantic Refining Company of Philadelphia; the American Transfer Company; the United Pipe Lines, a corporation of Pennsylvania; the Devco Manufacturing Company of New York; the Eclipse Lubricating Oil Company (limited) of Franklin, Pa.; John D. Rockefeller, William Rockefeller, Henry M. Flagler, William G. Warden, Charles Lockhart, William Frew, Charles Pratt, Henry H. Rogers, Jabez A. Bostwick, Jacob J. Vandergrift, O. H. Payne, John D. Archbold, respectively, buyers, refiners, and carriers of petroleum, parties of the first part, each, however, contracting severally for himself, themselves or itself, and not one for the others, and Benjamin B. Campbell, for himself and as president of the general council of Petroleum Producers' Union, and for the members thereof as shall signify their assent hereto by signing this agreement within sixty days from the date thereof, the parties of the second part, each contracting severally and in the manner aforesaid, witnesseth:

Whereas the several parties above named have been and are now engaged in some one or all of the branches of business connected with the petroleum trade, in buying, selling, shipping, storing, refining, transporting, and producing petroleum, and controversies have arisen between the said parties of the first and second part hereinbefore named, out of which have grown certain suits hereinafter named, and it is desirable to amicably adjust said controversies and settle said suits and proceeding; therefore it is hereby agreed between the said parties of the first and second parts:

I. That the said parties of the first part shall and will make no opposition to an entire abrogation of the system of rebates, drawbacks, and secret rates of freight in the transportation of petroleum on the railroads.

II. That said parties of the first part further agree that the railroad companies may make known to the other shippers of petroleum on their several roads all the rates of freight, and that said parties of the first part or any of them will not receive any rebate or drawback, that the railroad companies are not at liberty to give to other shippers of petroleum.

III. The said parties of the first part further agree that so far as the said pipe lines are concerned there shall be no discrimination used or permitted by the said pipe line companies between or against their patrons; that the rates of pipeage and storage shall be reasonable, uniform, and equal to all parties, and shall not be advanced except on thirty days' notice; that to the extent of their influence the United Pipe Lines and the other companies parties hereto do agree that there shall be no difference in the price of crude oil between one district and another, excepting such as may be based upon a difference in quality, to be determined by tests; that the said pipe lines will make every reasonable offer to receive, transport, store, and deliver all oil tendered them, and will receive, transport, store, and deliver all oil so tendered so long as the production does not exceed an average of 65,000 barrels per day during fifteen (15) consecutive days, unforeseen emergencies and unavoidable accidents excepted; and if the production shall exceed the amount stated, and also the storage capacity of the pipe lines, the parties of the first part, buyers of oil, agree that they will not purchase any so-called immediate shipment oil at a lower price than the price of certificate oil, provided that the owners of immediate shipment oil in the oil region do not sell to any other party or parties at a lower price.

IV. And all the parties of the first part further agree that until the production of oil reaches the daily maximum of 65,000 barrels as aforesaid, certificates or other vouchers will be given for all oil taken into the custody of the pipe lines, and the transfer of such certificates or other vouchers in the usual manner shall be considered as a delivery of the oil mentioned therein as between the pipe line and the seller, subject to the provisions of such certificate or other vouchers.

In consideration of the agreement herein before set forth, and of the execution thereof by the first parties, the said second parties do hereby agree as follows:

That the governor and the attorney-general of the Commonwealth of Pennsylvania shall be requested by them, within ten days of the execution hereof, to enter a motion to dismiss the bill filed by the Commonwealth of Pennsylvania against the United Pipe Lines and others at No. 309, October and November term, 1878, in the supreme court of Pennsylvania, and the proceeding by *quo warranto* No. 12, November term, 1878, in Venango County, and will do all that may be lawfully done to have the same dismissed of record. That upon written motion and agreement the supreme court of Pennsylvania may make of record, by consent of both parties, an order discharging the rule to show cause in the case of the Commonwealth *vs. Rockefeller et al.*, granted by the Hon. E. M. Paxson on the 11th day of December, 1879, and made returnable January 5, 1880, and annulling the order staying proceedings made by the supreme court on the 8th day of January, 1880.

It is further agreed that this agreement shall, upon execution thereof by the parties, be a full release and satisfaction between the parties of all causes of action of any and every kind whatsoever arising out of the past transactions involved in the said several suits, controversies, or prosecutions, or incident thereto, so far as the parties hereto or any of them are in any manner interested or have any cause or rights of action for or against each other. And it is hereby further agreed that the court of quarter sessions of Clarion County be, and they are hereby, respectfully requested to give their consent to the entering of a *nolle prosequi* in the case of the Commonwealth of Pennsylvania *vs. John D. Rockefeller et al.*, of April sessions, 1879, No. 25, in which the defendants named in said case are charged with conspiracy, and the district attorney of said county is hereby requested, on receiving the consent of the said court, to enter in said case a *nolle prosequi*, and the same to be entered of record in said court, with the intent that the same be a judgment of said court disposing of and ending all proceedings under indictment herein before referred to forever.

In witness whereof the aforesaid parties to these presents have hereunto set their hands and seals, the said corporations having caused their seals to be affixed this 5th day of February. A. D. 1880.

STANDARD OIL COMPANY,
By JOHN D. ROCKEFELLER, *President.* [L. s.]

(Attest:)
[L. s.] H. M. FLAGLER,
[L. s.] JOHN D. ROCKEFELLER,
[L. s.] O. H. PAYNE.

UNITED PIPE LINES,
By J. J. VANDERGRIFF, *President.* [L. s.]

(Attest:)
[L. s.] M. HUGHES, *Secretary.*
[L. s.] HENRY M. FLAGLER.
[L. s.] J. J. VANDERGRIFF.
[L. s.] WM. ROCKEFELLER.

IMPERIAL REFINING COMPANY, Limited,
By J. J. VANDERGRIFF, *Chairman.* [L. s.]

(Attest:)
[L. s.] D. MCINTOSH, *Secretary.*

ECLIPSE LUBRICATING OIL COMPANY, Limited,
By THOMAS BROWN, *Chairman.* [L. s.]

[L. s.] F. Q. BARSTOW, *Secretary.*

STANDARD OIL COMPANY,
By CHAS. LOCKHART, *President.* [L. s.]

[L. s.] A. F. BROOKS, *Secretary.*
[L. s.] W. G. WARDEN.
[L. s.] CHARLES LOCKHART.

THE ATLANTIC REFINING COMPANY,
By CHAS. LOCKHART, *President.* [L. s.]

[L. s.] CHAS. PRATT.
[L. s.] HENRY H. ROGERS.

ACME OIL COMPANY,
By JNO. D. ARCHBOLD, *President.* [L. s.]

(Attest:)
[L. s.] GEO. F. CHESTER, *Secretary.*
[L. s.] JNO. D. ARCHBOLD.

AMERICAN TRANSFER COMPANY,
By GEO. H. VILAS, *President.* [L. s.]

(Attest:)
[L. s.] GEO. F. CHESTER, *Secretary.*
[L. s.] J. A. BOSTWICK.
[L. s.] B. B. CAMPBELL.

Witness:

JOHN V. KEEF.

Witness as to signature of B. B. Campbell—
W. BAKEWELL.

This agreement made on the 27th day of April, A. D. 1880, between B. B. Campbell and the Pennsylvania Railroad Company.

Whereas it having been alleged by persons engaged in the production and shipping of petroleum and the products of petroleum that discrimination had been practised in the rates of freight and in the distribution of cars by the Pennsylvania Railroad Company in such manner as to be injurious to the business of such producers, and bills in equity having been filed in the name of the Commonwealth in the western district of the supreme court of the State of Pennsylvania for the purpose of restricting such discrimination;

And whereas in pursuance of an agreement signed on the 12th of February, 1880, by the said B. B. Campbell, representing the oil producers, at whose instance such bills were filed, and Thomas A. Scott, as president of the Pennsylvania Railroad Company, the said bills were withdrawn;

And whereas in said agreement the Pennsylvania Railroad Company agreed, upon the withdrawal of said bills, that it would enter into written contracts with the said B. B. Campbell, representing said producers, and all such producers as should within sixty days after the date of said agreement signify their assent to said agreement by signature to the same or duplicate thereof, which contracts should stipulate as therein mentioned and as hereinafter provided;

Whereas the several parties above named have been and are now engaged in some one or all of the branches of business connected with the petroleum trade, in buying, selling, shipping, storing, refining, transporting, and producing petroleum, and controversies have arisen between the said parties of the first and second part hereinbefore named, out of which have grown certain suits hereinafter named, and it is desirable to amicably adjust said controversies and settle said suits and proceeding; therefore it is hereby agreed between the said parties of the first and second parts:

I. That the said parties of the first part shall and will make no opposition to an entire abrogation of the system of rebates, drawbacks, and secret rates of freight in the transportation of petroleum on the railroads.

II. That said parties of the first part further agree that the railroad companies may make known to the other shippers of petroleum on their several roads all the rates of freight, and that said parties of the first part or any of them will not receive any rebate or drawback, that the railroad companies are not at liberty to give to other shippers of petroleum.

III. The said parties of the first part further agree that so far as the said pipe lines are concerned there shall be no discrimination used or permitted by the said pipe line companies between or against their patrons: that the rates of pipeage and storage shall be reasonable, uniform, and equal to all parties, and shall not be advanced except on thirty days' notice; that to the extent of their influence the United Pipe Lines and the other companies parties hereto do agree that there shall be no difference in the price of crude oil between one district and another, excepting such as may be based upon a difference in quality, to be determined by tests: that the said pipe lines will make every reasonable offer to receive, transport, store, and deliver all oil tendered them, and will receive, transport, store, and deliver all oil so tendered so long as the production does not exceed an average of 65,000 barrels per day during fifteen (15) consecutive days, unforeseen emergencies and unavoidable accidents excepted; and if the production shall exceed the amount stated, and also the storage capacity of the pipe lines, the parties of the first part, buyers of oil, agree that they will not purchase any so-called immediate shipment oil at a lower price than the price of certificate oil, provided that the owners of immediate shipment oil in the oil region do not sell to any other party or parties at a lower price.

IV. And all the parties of the first part further agree that until the production of oil reaches the daily maximum of 65,000 barrels as aforesaid, certificates or other vouchers will be given for all oil taken into the custody of the pipe lines, and the transfer of such certificates or other vouchers in the usual manner shall be considered as a delivery of the oil mentioned therein as between the pipe line and the seller, subject to the provisions of such certificate or other vouchers.

In consideration of the agreement herein before set forth, and of the execution thereof by the first parties, the said second parties do hereby agree as follows:

That the governor and the attorney-general of the Commonwealth of Pennsylvania shall be requested by them, within ten days of the execution hereof, to enter a motion to dismiss the bill filed by the Commonwealth of Pennsylvania against the United Pipe Lines and others at No. 309, October and November term, 1878, in the supreme court of Pennsylvania, and the proceeding by *quo warranto* No. 12, November term, 1878, in Venango County, and will do all that may be lawfully done to have the same dismissed of record. That upon written motion and agreement the supreme court of Pennsylvania may make of record, by consent of both parties, an order discharging the rule to show cause in the case of the Commonwealth *vs. Rockefeller et al.*, granted by the Hon. E. M. Paxson on the 11th day of December, 1879, and made returnable January 5, 1880, and annulling the order staying proceedings made by the supreme court on the 8th day of January, 1880.

It is further agreed that this agreement shall, upon execution thereof by the parties, be a full release and satisfaction between the parties of all causes of action of any and every kind whatsoever arising out of the past transactions involved in the said several suits, controversies, or prosecutions, or incident thereto, so far as the parties hereto or any of them are in any manner interested or have any cause or rights of action for or against each other. And it is hereby further agreed that the court of quarter sessions of Clarion County be, and they are hereby, respectfully requested to give their consent to the entering of a *nolle prosequi* in the case of the Commonwealth of Pennsylvania *vs. John D. Rockefeller et al.*, of April sessions, 1879, No. 25, in which the defendants named in said case are charged with conspiracy, and the district attorney of said county is hereby requested, on receiving the consent of the said court, to enter in said case a *nolle prosequi*, and the same to be entered of record in said court, with the intent that the same be a judgment of said court disposing of and ending all proceedings under indictment herein before referred to forever.

In witness whereof the aforesaid parties to these presents have hereunto set their hands and seals, the said corporations having caused their seals to be affixed this 5th day of February, A. D. 1880.

STANDARD OIL COMPANY,
By JOHN D. ROCKEFELLER, *President.* [L. s.]

(Attest:)
[L. s.] H. M. FLAGLER,
[L. s.] JOHN D. ROCKEFELLER,
[L. s.] O. H. PAYNE.

UNITED PIPE LINES,
By J. J. VANDERGRIFF, *President.* [L. s.]

(Attest:)
[L. s.] M. HUGHES, *Secretary.*
[L. s.] HENRY M. FLAGLER.
[L. s.] J. J. VANDERGRIFF.
[L. s.] WM. ROCKEFELLER.

IMPERIAL REFINING COMPANY, Limited,
By J. J. VANDERGRIFF, *Chairman.* [L. s.]

(Attest:)
[L. s.] D. MCINTOSH, *Secretary.*

ECLIPSE LUBRICATING OIL COMPANY, Limited,
By THOMAS BROWN, *Chairman.* [L. s.]

[L. s.] F. Q. BARSTOW, *Secretary.*

STANDARD OIL COMPANY,
By CHAS. LOCKHART, *President.* [L. s.]

[L. s.] A. F. BROOKS, *Secretary.*
[L. s.] W. G. WARDEN.
[L. s.] CHARLES LOCKHART.

THE ATLANTIC REFINING COMPANY,
By CHAS. LOCKHART, *President.* [L. s.]

[L. s.] CHAS. PRATT.
[L. s.] HENRY H. ROGERS.

ACME OIL COMPANY,
By JNO. D. ARCHBOLD, *President.* [L. s.]

(Attest:)
[L. s.] GEO. F. CHESTER, *Secretary.*
[L. s.] JNO. D. ARCHBOLD.

AMERICAN TRANSFER COMPANY,
By GEO. H. VILAS, *President.* [L. s.]

(Attest:)
[L. s.] GEO. F. CHESTER, *Secretary.*
[L. s.] J. A. BOSTWICK.
[L. s.] B. B. CAMPBELL.

Witness:

JOHN V. KEEF.

Witness as to signature of B. B. Campbell—

W. BAKEWELL.

This agreement made on the 27th day of April, A. D. 1880, between B. B. Campbell and the Pennsylvania Railroad Company.

Whereas it having been alleged by persons engaged in the production and shipping of petroleum and the products of petroleum that discrimination had been practised in the rates of freight and in the distribution of cars by the Pennsylvania Railroad Company in such manner as to be injurious to the business of such producers, and bills in equity having been filed in the name of the Commonwealth in the western district of the supreme court of the State of Pennsylvania for the purpose of restricting such discrimination;

And whereas in pursuance of an agreement signed on the 12th of February, 1880, by the said B. B. Campbell, representing the oil producers, at whose instance such bills were filed, and Thomas A. Scott, as president of the Pennsylvania Railroad Company, the said bills were withdrawn;

And whereas in said agreement the Pennsylvania Railroad Company agreed, upon the withdrawal of said bills, that it would enter into written contracts with the said B. B. Campbell, representing said producers, and all such producers as should within sixty days after the date of said agreement signify their assent to said agreement by signature to the same or duplicate thereof, which contracts should stipulate as therein mentioned and as hereinafter provided;

And whereas on the 25th of February, 1880, the board of directors of the Pennsylvania Railroad Company approved the action of the president in signing said agreement, and authorized the president or one of the vice-presidents to execute such further and formal agreements as might be deemed necessary to carry out the terms of said agreement:

Now, therefore, this agreement witnesseth that, in consideration of the premises and other good and valuable considerations to them thereunto moving it is covenanted and agreed between the parties hereto as follows, to wit:

First. That the Pennsylvania Railroad Company shall and will make known to all shippers of petroleum and its products all the rates of freight intended to be charged to all shippers upon such petroleum and its products.

Second. That the said Pennsylvania Railroad Company shall not and will not pay or allow any shipper of petroleum or its products any rebate, drawback, or commission upon the shipments of such petroleum or products different from or greater than that which shall be paid to any other person shipping or offering to ship like quantity; and that any discrimination that may be made in favor of shippers of the large quantities shall be reasonable, and shall upon demand made be communicated to all persons shipping or who are now or may be hereafter engaged in the business and desire to ship petroleum and its products.

Third. That the said Pennsylvania Railroad Company further agrees that, upon its own road and upon any other road or roads upon which it shall furnish cars and engage in the business of a common carrier of petroleum and its products, it will not practice any discrimination in the distribution of its cars, but will make fair apportionment in such distribution among all applicants for cars having actually in their custody and ready for shipment at the time of their application the petroleum or products for the shipment of which they ask facilities.

In witness whereof the individuals parties hereto have hereunto set their hands and seals and the said Pennsylvania Railroad Company has caused its corporate seal to be hereunto affixed, duly attested, the day and year first above written.

[SEAL.]

THE PENNSYLVANIA RAILROAD COMPANY,

By THOMAS A. SCOTT,
President.

B. B. CAMPBELL,

Attest:

JOHN C. SIMS,
Assistant Secretary.

And thereupon a committee was appointed to prepare a resolution expressive of the opinion of the council as to the agreements, and the committee in due time reported the following:

"*Resolved*, That the general council of the Petroleum Producers' Unions approves the action of the president in withdrawing the suits against the Standard Combination and the Pennsylvania Railroad Company as wise and judicious and compelled under the existing conditions of the litigations. While we do not approve of the reservations in the contracts presented of the right to make any discriminations in the rates of freight, we tender to our president our thanks for the energy, fidelity, and ability with which he has conducted the several legal proceedings."

This was adopted with one dissenting vote. A committee was also appointed to report by resolution a statement of the reasons which led to the withdrawal of the suits, and that committee reported as follows:

"The committee report that it is impossible in the limited time given them to make a statement of all the facts relative to the conduct of the several suits and the reasons which led to their withdrawal, but recommend that these be considered hereafter. They therefore report the following resolution:

"*Resolved*, That the several suits and prosecutions instituted by the legal committee of the general council have failed to secure to us an adjudication by the courts of the correctness of our positions, and that this result is due to the failure of the State administration of Pennsylvania to fulfill its promises of support, to the dangerous influence of corporations with the legislative, executive, and judicial departments of the government, and to the delays brought about by direct interposition of the State authorities, by which the patience and means of the oil producers were exhausted and their efforts rendered nugatory.

"We declare that by the inefficiency and weakness of the secretary of internal affairs in the year 1874, by the interposition on more than one occasion of the attorney-general in 1879, by which the taking of testimony was prevented, by the failure of the present governor for many months either to grant or deny the requisition for criminals indicted for crime within the Commonwealth of Pennsylvania, fugitives to other States, and by the

interference of some of the judges of the supreme court, by an extraordinary and, according to the best legal judgment of the land, unlawful proceeding, by which the trial of an indictment for misdemeanor pending in a local court was delayed and prevented, the alarming and most dangerous influence of powerful corporations has been demonstrated. While we accept the inevitable result forced upon us by these influences, we aver that the contest is not over and our objects not attained; but we will continue to advocate and maintain the subordination of all corporations to the laws, the Constitution, and the will of the people, however and whenever expressed; that the system of freight discrimination by common carriers is absolutely wrong in principle and tends to the fostering of dangerous monopolies, and that it is the duty of the Government, by legislative and executive action, to protect the people from their growing and dangerous power."

And this was adopted with five dissenting voices. A committee was then, upon resolution, appointed to prepare a history of the organization, purposes, and transactions of the general council and a history of the several suits and prosecutions, and this committee reported these pages to a regular meeting of the council, held at Titusville August 10, 1880, by which it was adopted and ordered to be printed.

Immediately after the adjournment of the general council the treasurer of the fund raised for legal expenses began the task of ascertaining subscribers and repaying the amounts donated. Much difficulty was found in doing this for the reason that many were unable at once to give the amount they had paid and many had requested their names to be withheld, while some money had been received from anonymous sources. Up to the present time all the costs and counsel fees have been paid, and nearly all the subscribers to what was known as the legal fund and those not yet paid will be as soon as ascertained. The refunding of the surplus, if any, to the Standard Oil Company, of course, will await the final distribution of the money to the subscribers.

An analysis of the contracts obtained from the Standard Oil Company and its confederates shows the following concessions, which will be observed to cover all the main causes of complaint made by the producers in their memorial of August 15, 1878, and in the charges of the bills in equity:

1. The abandonment of the immediate-shipment swindle.
2. The receiving, storing, transportation, and delivery of crude petroleum from the wells were assured.
3. Uniform, reasonable, and equal rates of pipe transportation were guaranteed.
4. There should no longer be any discrimination in favor of or against individuals, patrons of the pipe lines.
5. The owner of oil in the United Pipe Lines was entitled to receive certificates for it on demand.
6. Discrimination against different districts of the petroleum field was abandoned.
7. There was a positive agreement to take care of 65,000 barrels of crude production each day.
8. The system of secret rates of freight and secret rebates was abandoned.
9. The sale and delivery of a certificate or pipe-line voucher for oil was to be deemed a sale and delivery of the oil itself, thus relieving tanks owned by private persons to the extent of such sale and delivery.

The contract with the Pennsylvania Railroad Company provided—

1. That it would make known to all shippers all rates of freight charged upon petroleum. This was an abolition of secret rates.
2. If any lower rates of freight were allowed one shipper as against another on demand that rate was to be made known.
3. There should no longer be any discrimination in the allotment and distribution of cars to shippers of petroleum.
4. Any rebate allowed to a large shipper was to be reasonable.

As against these advantages the contracts provided that the Standard combination had the right to receive any rebate the railroad companies had a right to grant under the agreements, and the railroad company reserved the right to grant a reasonable rebate to shippers of large quantities as against those who were able to transport only small amounts.

This last point, the railroads had always claimed, and now claim, had been held in their favor by the courts, and it is probable that when the power was exercised in good faith and within reasonable bounds their right to so discriminate would be declared.

In the matter of the petroleum traffic, however, the railroad companies could not shield themselves behind this, because the Standard Oil Company was not the largest shipper until they had made it so by a long-continued system of discrimination and favoritism that had driven out competition and built up that monopoly.

If, in the summer of 1878, individual producers could have secured such contracts as these, they would have been gladly accepted, and the benefits accruing from their enforce-

ment would have been great. Yet but very few signed these agreements or expressed any desire to examine or discuss them with a view of availing themselves of any beneficial provisions there might be in them.

What, then, it may be asked, has been accomplished by the organization of the Producers' Union and their general council, the days and weeks spent in deliberation and consultation, the litigation in the courts?

The answer can not be given fully now, but the future will give one of absolute verity. The wrongs complained of were the result of the growth of a system that should have no place in this land of republican institutions. Whatever tends to build up the power of the few, to increase their gains without corresponding labor, to render of no avail the struggles of energy, mind, and capital, to force from any calling the man competent to pursue it, by the mere exercise of power against which there is no remedy, save that of physical force and revolution, will, if permitted by the administration, undermine the foundations of free government, and bring destruction to the rights, liberties, and privileges of the people.

Not least among the results of the petroleum producers' movement is the demonstration that we live under a form of government and under laws that render a Standard Oil Company possible; that in the struggle for wealth, and blinded by the outward signs of national growth and prosperity, great corporations have been permitted to go uncontrolled and unchecked demanding and receiving special privileges and autocratic powers not accompanied by the necessary machinery to prevent their abuse, to regulate and keep within the bounds of constitutional letter or spirit these monstrous creatures of the law. Nor should it be forgotten that they have gone so far as to fill our legislative and executive departments with men paid to do their bidding, and who dare not disobey their masters.

By the agitation of this subject, and the exposure of methods by which a small band of obscure men may grow so great as to overshadow a continent, and even the seas and beyond them; may dictate the price of the light shed by nature's bountiful product on the humble home of honest industry; the kind of labor by which thousands hope to earn their bread; the wages they shall receive for it, and the time they shall work, the public mind has been brought to think upon the means of remedy, and to believe that such combinations of corporate capital must be controlled by stringent and easily-administered law, else they will rule the State, elections will be farces, and government representative of the people will be at an end. But it is not alone the promulgation of these abstract theories, and the education of the people in the immediate dangers pending, that the oil producers have accomplished. They have extorted from the lips of the wrong-doers an implied confession of the unlawfulness of their acts, and promises of future good behavior, and have brought them to the belief that it will not be well for them to get again into the clutches of the law from which they escaped, not without difficulty and humiliation.

More than this, the great railway carriers of the country have been themselves converted to the belief that the rebate system is as bad for them as for the public, and are beginning to learn that the true prosperity of their corporations lies not in building up by favoritism gigantic monopolies of trade and produce, or of one locality at the expense of some other, but by encouraging individual capital and enterprise along their lines of traffic. While these pages are being written the Pennsylvania Railroad Company has thrown out the banner of free-trade, equal rates, and no discriminations along the vast arteries and veins of commerce it controls, and henceforth will devote its energies to the regaining at least a part of the petroleum-carrying traffic wrested from it by the delusive snares of the Standard Oil Company.

Unless the signs of the times fail to be prophetic, in the near future the United States will exercise its constitutional right to regulate commerce between the States, and in the States themselves such laws will be enacted, and such men be elected to enforce them, as will bring the great corporations to obedience to the principles of justice and true public policy.

[Vol. III.—Extracts from Thos. L. Kimball's testimony before Pacific Railway Commission.]

OMAHA, NEBR., Tuesday, June 21, 1887.

THOMAS L. KIMBALL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Q. How long have you been connected with the Union Pacific Company?—A. Since the early part of 1871.

Q. What was your position?—A. General passenger and ticket agent at that time.

Q. How long did you remain general passenger and ticket agent?—A. Until 1880.

Q. What position did you then fill?—A. Assistant general manager.

Q. How long were you assistant general manager?—A. Until the autumn of 1884; then I was appointed to my present position.

Q. That is, general manager?—A. General traffic manager.

DUTIES OF GENERAL PASSENGER AND TICKET AGENT.

Q. What were your duties as general passenger agent in 1871?—A. I had charge of the making of all the rates that were in use upon the Union Pacific lines for the carriage of passengers and baggage, and also of all the agencies that were employed to procure business in the passenger department—the traveling agencies, the advertising agencies, etc.

THE STANDARD OIL COMPANY.

Q. Has the Standard Oil Company ever made any shipments over the Union Pacific Railway?—A. Yes, sir; a great many.

Q. When did they commence to ship?—A. I presume about the time the Standard Oil Company commenced.

Q. Well, when did it commence?—A. I could not tell you. I know this about the Standard Oil Company, that it has been a very large patron of the Union Pacific; we have made a good deal of money out of their business. We have paid them a good deal in rebates.

REBATES ALLOWED IT.

Q. What rebates did you allow the Standard Oil Company?—A. At different times different rates, according to the bids that other roads made for their business.

Q. When did you commence to allow the Standard Oil Company rebates on their business?—A. You will have to allow me to look that up; I could not tell you now.

Q. Was it during your official term as assistant general manager?—A. I will have that put in the answer, if you will allow me.

RATE OF REBATE.

Q. What was the rate allowed to the Standard Oil Company?—A. All sorts of rates, according to the point of delivery and the liveliness of competition at that point; 5 per cent., 10 per cent., 15 per cent., and up to 30 per cent.

Q. Prior to 1884 what was the rate that you allowed to the Standard Oil Company on oil sent to the dealers at San Francisco?—A. I could not tell you from recollection.

Q. Have you any memorandum that will show?—A. I think I could find it in the records.

The CHAIRMAN. Will you please produce the records, and also the subsequent rate—the rate allowed since the 1st of January, 1884, to April, 1887, to San Francisco?

The WITNESS. I will.

RATES TO OTHER OIL COMPANIES.

Q. What rate did you allow to shippers other than the Standard Oil Company?—

A. The Continental Oil Company and the Consolidated Tank Line Company, I think, are on our books for rebates. Perhaps I ought to remark right here that the Standard Oil Company ships about 95 per cent. of the total oil distributed in this country. Prior to the payment of rebates to the Standard Oil Company that oil pretty much all went by ocean to the Pacific coast; and after we had agreed to pay them a rebate they transferred the business largely to the overland routes.

Q. How were the payments of rebate made to the Standard Oil Company?—A. By voucher, I think.

PREFERENCE TO STANDARD OIL COMPANY.

Q. Did the Standard Oil Company have a preference over all other shippers in oil?—A. There have been times when the Standard Oil Company had a preference.

Q. Was that preference very great as compared with the rates to the other oil shippers?—A. Yes; it was pretty large.

EMBARRASSING EFFECT ON SMALLER DEALERS.

Q. What was the effect of that on the smaller dealer or smaller shipper in oil?—A. I should think it would be embarrassing to the small shipper.

Q. Only embarrassing?—A. We found it very embarrassing when the Standard Oil Company took its business away from us on the 1st of April. They have got about

200,000 cases of oil on the ocean, and they will ship 600,000 before the year is out in the same way.

REBATE TO STANDARD OIL COMPANY.

Q. What is the next item?—A. Page 2, "Standard Oil Company, San Francisco, \$96.11." This refers to a car-load of oil shipped from Kansas City to Weiser, Idaho, 23,600 pounds; \$640.75. A rebate of 15 per cent. was given on this shipment as part of an understanding by which we secured the competitive business controlled by that company.

Q. What was the rate?—A. The rebate was 15 per cent. off the rate. The total rate on that shipment was \$640.75.

Q. Was that 15 per cent. off the open published rate?—A. Yes.

THE CONTINENTAL OIL COMPANY.

Q. What other oil companies, in competition with the Standard Oil Company, had such a rebate?—A. The Continental Oil Company.

Q. That was the Standard Oil Company, was it not?—A. That depends on the date. There is nothing to show the date of this shipment, but the Continental Oil Company was a competitor of the Standard Oil Company until December, 1885, I think, when the Continental Oil Company was absorbed by the Standard. I have date somewhere.

The CHAIRMAN. That is near enough. What other company?

The WITNESS. No other that I think of.

STANDARD OIL COMPANY.

Page 17, "Standard Oil Company, Denver, \$203.19, oil." This is made up by a rebate of 26 cents per 100 pounds on 94,260 pounds of oil, from Council Bluffs to Laramie, Wyo., tariff \$1.31 being reduced to \$1.05. This rebate was given for the purpose of securing competitive traffic of the Standard Oil Company for our line. Difference is accounted for by an undercharge on original billing, amounting to \$51.82.

COMMENCEMENT OF REBATES TO STANDARD OIL COMPANY.

The CHAIRMAN. Well, you can add that, if you ascertain it to be so. Another question was, "When did the company commence allowing rebates to the Standard Oil Company?" There ought to be no trouble about that.

The WITNESS. So far as I have been able to ascertain the dates the payments were made to the Continental Oil Company from 1874 to 1884. The Standard Oil dates I can not give you at present, but about that time in 1884 there was a consolidation, as I understand it, between the Continental Oil Company and the Standard.

Q. How long had the Standard been shipping over the road prior to that date?—A. I should judge about the same period. They were in competition, and we were paying rebates to both of them.

RATE ALLOWED STANDARD OIL COMPANY PRIOR TO 1884.

Q. Another call was, "What was the rate allowed the Standard Oil Company prior to 1884?"—A. That I can not give you now.

Q. What has been the rate allowed from January 1, 1884, to April 1, 1887, to San Francisco?—A. I can not give that, because it was a fluctuating rate.

Q. Can you give me an average rate?—A. No.

The CHAIRMAN. You led me into this subject under the idea that you would let me have those.

The WITNESS. Well, you must excuse me, because I have been working night and day.

The CHAIRMAN. If you can not give the information you must say so.

The WITNESS. But I propose to give you the information as soon as possible. In a general way I may say that the rates went down to 30 cents and were as high as \$1 per 100 pounds from Chicago.

Q. Is that from January 1, 1884, to April 5, 1887?—A. Yes, sir.

Q. What was the rate allowed the Standard Oil Company prior to 1884?—A. There might have been a hundred different rates during that period. If the Pacific Mail Steamship Company made a bid on the shipment of oil from New York to San Francisco, and we made a bid, it might drop our rate 5 cents a hundred or considerably more.

Q. Can you give any fixed rate up to that time?

The WITNESS. The open published tariff?

The CHAIRMAN. No; the net rate. Can you give the fluctuations of the rate?

The WITNESS. I can not give you that from memory.

The CHAIRMAN. I called for that eight days ago.

The WITNESS. We have got to go back over several years of record in order to get the rate.

The CHAIRMAN. Let us understand whether you intend to give the Commission the rates or not. Let us have yes or no on that subject.

The WITNESS. I intend to give the Commission the rate.

The CHAIRMAN. Do you think you can get it?

The WITNESS. I think I can.

Q. What was the rate of rebate given to the Standard Oil Company prior to January 1, 1884, and what was the rate from January 1, 1884, to April 1, 1887, from Omaha or Council Bluffs through to San Francisco?—A. It is in the hands of a clerk to make up from the record.

ALLOWANCE FOR RETURN OF CARS TO OTHER SHIPPERS.

The CHAIRMAN. Another of the questions already asked was, "What allowance was made by the Union Pacific Railway Company for the return of cars for other shippers than the Standard Oil Company?"

Mr. POPPLETON. There was a "car-service statement" put in here that I supposed answered that.

The CHAIRMAN. Does that cover other shippers?

The WITNESS. Yes.

The CHAIRMAN. All of them?

The WITNESS. The same rule for the return of cars applies in all cases.

Q. Now let us understand. Do you mean to say that other shippers had the same rate for the return of cars that the Standard Oil Company had?—A. That is what our record shows, except some rebate that has been paid in the last year, as I remember; those I am having looked up. They were charges refunded.

Q. Were they refunded to the Standard Oil Company?—A. I think so.

Q. Who else were they refunded to?—A. It was either the Standard or the Continental, I don't know which; but I can find out.

The CHAIRMAN. Now I understand you are to produce, then, the allowance made by the Union Pacific for the return of cars for other shippers than the Standard Oil Company?

The WITNESS. If any, yes.

RULE FOR RETURN OF CARS UNIFORM.

Mr. POPPLETON. Has not that been answered?

The WITNESS. I think it has gone in already.

Mr. POPPLETON. In what statement has it gone in?

The WITNESS. I have stated that our rule for the return of loaded or empty oil-cars was the same with respect to all companies.

Mr. POPPLETON. Was it applied to all companies alike?

The WITNESS. It was applied to all companies with the exception of some cases in the last twelve months, where, my recollection is, the charge was refunded to the company—the Standard Oil or the Continental.

THE CONSOLIDATED TANK COMPANY.

By the CHAIRMAN:

Q. What about the Consolidated Tank Company?—A. It would be in the name of the Continental or Consolidated.

Q. There are amounts stated in your books as for both companies, the Continental and the Standard. How is that?

The WITNESS. The tank line and the Standard Oil Company always mean the same thing, as I understand it. The Continental was a rival company.

The CHAIRMAN. They do not appear in your accounts as the same. Does your statement contain the amounts paid to the Tank Line Company?

The WITNESS. That is as I understand it.

The CHAIRMAN. Then, in addition to the Standard Oil Company and the Continental Company, for those years there should be added, as I understand it, the Tank Line Company.

The WITNESS. The tank line was the name of a style of cars,

Statement of charges refunded annually to the Standard Oil Company, account of empty oil-tanks returned.

Year.	Refund.
1880.....	\$121.00
1881.....	54.00
1882.....	80.39
1883.....	529.15
1884.....	61.15
1885.....	
1886.....	
Total.....	654.69

Statement of charges refunded on empty oil-tanks returned, account Continental Oil Company, during the following years :

Date.	Amount.
1884.....	\$329.55
1885.....	151.65
1886.....	985.39
Total.....	1,466.59

The WITNESS. In reply to your question as to the rates charged on oil in tank cars for the Continental and Standard Oil Companies, I would say that those rates were as follows :

1878. One dollar and twenty-five cents per hundred from Cleveland to San Francisco.
1879. One dollar and twenty cents from Cleveland ; \$1.10 from Pittsburgh. In cases, 90 cents per hundred from Cleveland ; 95 cents per hundred from Pittsburgh.

1880. Same as 1879.

1881. Seven and three-fourth cents per gallon* from New York ; 7½ from Pittsburgh ; 7 from Cleveland ; 6.3 from Chicago.

1882. Same as 1881.

1883. Same.

1884. Same.

1885. Eight and one-fourth cents from Cleveland, Pittsburgh, and Buffalo ; 7½ from Chicago.

1886. Same as 1885 up to October 26 ; rates have been fluctuating since that time.

The above special rates were given for the purpose of securing the greater portion of the shipment of oil by the Standard and Continental Oil Companies, consigned to the Pacific coast, as against the water routes, and for considerations that no other persons or firms were able to comply with.

STATEMENTS PRODUCED IN RESPONSE TO CALLS.

Q. Have you any other calls ?—A. I have here statements as follows :

First. A statement showing rebates and overcharges paid annually to the Consolidated Tank Line Company from 1882 down to June 24, 1887, inclusive ; and also gross earnings on the business on which the rebate was paid.

I have a like statement as to the Continental Company from 1881 to 1887.

I have a similar statement for the Standard Oil Company from 1880 to 1887.

I have a like statement of charges refunded annually to the Standard Oil Company, account of empty oil-tanks returned, from 1880 to 1886.

I have also a statement of charges refunded on empty oil-tanks, return account of the Continental Oil Company, from 1884 to 1886.

NO RETURNS OF TANK CARS.

The WITNESS. One of your calls was in regard to what amount was allowed, if any, for return of tank cars for any other company than the Standard Oil Company. As to that, I say that the car accountant reports that he finds no record of any other tank cars during that period.

On my memorandum I have an entry as to the coal and stone business. The following is a brief statement of the operations of the coal business for 1886 :

* Seven and one-half pounds to gallon.

[Vol. VI. Extracts from testimony of John C. Stubbs before Pacific Railway Commission.]

PALACE HOTEL, SAN FRANCISCO, CAL.,
Friday, August 12, 1887.

JOHN C. STUBBS, being duly sworn and examined testified as follows:

By the CHAIRMAN:

Q. What is your occupation?—A. I am general traffic manager of the Southern Pacific Company.

POSITIONS OCCUPIED BY WITNESS.

Q. How long have you been connected with the Southern Pacific Company in that position?—A. I think about three or four years as a general traffic manager. I do not remember the exact date of my appointment.

Q. What position did you hold prior to that time?—A. Just previous to that time I was freight traffic manager; previous to that I was general freight agent.

Q. Will you give us the year as you go along?—A. I can not do it.

Q. At what period were you freight manager?—A. I took service with the Central Pacific Railroad Company as chief clerk in the general freight agent's office on October 1, 1870. In the latter part of 1871 I was appointed assistant general freight agent. About two years later I was made general freight agent. About 1882, I think, I was made freight traffic manager, which was merely a change of title, and I think that in the fall of 1884 I was appointed general traffic manager.

Q. Of the Southern Pacific Company?—A. At that time it was the Central Pacific, and after the Southern Pacific came into control I continued in the same relation to that company.

GENERAL SUPERVISION OF TRAFFIC ON CONSOLIDATED ROADS.

Q. Under the consolidation have you charge, as an officer of the Southern Pacific Company, of all the business that comes under the control of the general manager of the Central Pacific?—A. The business of the Central Pacific, that is, the traffic of the Central Pacific, is immediately under my supervision, and has been, you may say, continuously, with the exception of a passenger department, and that only since 1884. The freight business has been under my control since 1871.

ARRANGEMENTS WITH THE STANDARD OIL COMPANY.

Q. What arrangements have you made with respect to overcharges by way of error, or overcharges by way of arrangement, with the Standard Oil Company on their shipments?—A. We have no arrangements at present with the Standard Oil Company.

Q. What arrangements had you prior to April 1, 1885, at any time, with the Standard Oil Company or the Continental Oil Company, which was afterwards merged into the Standard Oil Company?—A. I desire, after I answer this question, to explain the reasons for what was done in connection with the Standard Oil Company. I believe from the time that the Standard Oil Company took charge, or acquired the oil business on this coast, it had lower rates than the general tariff provided, or than other shippers paid on coal oil. I think that it was the subject of written agreement. The reason for that was, that previous to the Standard Oil Company coming into business here the oil was almost wholly transported via Cape Horn. It was chiefly controlled by Alvinza Hayward, who employed a man by the name of Blake as his agent. The tonnage was very large, and not only went itself via Cape Horn but was an inducement to the laying on of ships which would offer to take other freight, having a partial load of oil. We endeavored to secure the transportation of that oil by rail. I had frequent interviews with Mr. Blake on this subject in the early seventies, and I believe that I once offered him a rate of 50 cents per 100 pounds if he would agree to ship by rail from New York, but he would not do it.

Afterwards the Standard Oil Company came over here, and I think that they bought out Hayward's business. We approached the Standard Oil Company, looking to the transfer of that business from the Cape Horn route to our line. We gained some advantage from the change in the control of the business by reason of the fact that the Standard Oil Company wanted to supply this coast from Cleveland, which brought the point of production several hundred miles nearer San Francisco than when shipments came from New York, but at the same time took it several hundred miles away from the Atlantic coast and from the vessels there.

CONTRACT MADE.

We made a contract with the Standard Oil Company to bring all of its oil by rail. I think the first rate we made was somewhere in the neighborhood of \$200 a car-load from Cleveland to San Francisco.

Q. What was the date of the agreement?—A. I would not be sure about that, but I think some time in 1876.

Q. Have you a copy of it?—A. Yes, sir.

Q. Will you produce a copy of the Standard Oil Company's contract?—A. Yes, sir; that arrangement has been continuous, or was continuous up to the date of the dissolution of the transcontinental association, which was an association of all the overland railroad lines, and it was a contract in which all the lines between Cleveland and San Francisco were concerned. The written instrument, while made between the Pacific roads or their representatives and the Standard Oil Company was really between all of the railroads between San Francisco and Cleveland. The lower rates were participated in by all the lines between these points. I think that the original contract was made in New York by the Union Pacific Railroad.

CONDITIONS REGARDING TANK CARS.

Q. Was there any condition in the agreement with reference to the deduction of \$200 or whatever rate was allowed for the return of empty cars?—A. I think not; I do not remember anything of the kind.

Q. Did you make any contract subsequently with the Standard Oil Company with reference to the return of empty tank cars?—A. I do not think so.

Q. Was there any condition with reference to sending them back without charge?—A. I do not remember it. I think that few, if any, boiler tank cars were ever used by the Standard Oil Company. It was certainly understood at the time that the contract was made that they would not use boiler tank cars. That was one of the great obstacles in the way of competing with the Cape Horn route. In the mean time some one had patented a box tank car, putting tanks in the end of the car, so that while it was able to carry a full load of oil, it was available for the use of ordinary freight returning. My recollection is that while it was not specifically stated in the contract, it was the understanding that that class of cars must be used by the Standard Oil Company in order that we might return them loaded, if we could get loads for them. If we could not get loads for them, we would have to return them empty. In returning them we always load them, and instead of charging for their return, we would naturally pay mileage as we do on all foreign cars. We would treat them as though they were the cars of a connecting line.

STANDARD OIL COMPANY'S SHIPMENTS.

Q. Did the Standard Oil Company have many empty packages pass over your line?—A. I think they have shipped boxes. They would ship the oil in bulk, and then ship the empty boxes and cans to be filled, but I can not be sure about that. It may be possible that it related to refund charges on empty tank cars. They may have sent out here some few empty tank cars.

Q. Would that be part of the agreement made with them in 1876 that you referred to this morning?—A. As I explained this morning, or if I did not I ought to have explained, that I do not think there was any such consideration in the contract that we should return them free. If we did return them free, it was under some subsequent agreement or some understanding reached for some reason or other. We did everything that we could to encourage the Standard Oil Company in getting their business here, because it was a case of "ground hog." We must either have their business or we would not have any oil business.

DEFERRED TO THE JUDGMENT OF UNION PACIFIC.

Q. If the Union Pacific had entered into an agreement for the return of empties free, and that was a part of their agreement, it is likely that all through arrangements would be extended to the Central Pacific, is it not?—A. As a rule we have always deferred to the judgment of the Union Pacific upon western-bound freight rates and west-bound through business, and, unquestionably, if any of the chief officers of the Union Pacific had made a contract of that kind with the Standard Oil Company we would have shared in it, just as the lines east of Council Bluffs would be likely to do. It was a matter of joint interest to us all, and we endeavored to confine the business to our line by all necessary concessions.

Q. The explanation that you have given with reference to the entries that appear from time to time on the books that have been shown to you would apply to the

eighty-six payments in the nature of rebates, amounting to over \$12,000 during fifteen months—twelve months of 1884 and three months of 1885. Would that be the explanation of these entries?—A. Generally to the Standard Oil Company. It is altogether a matter of contract with them.

[Vol. VI. Extracts from testimony of Richard Gray before Pacific Railway Commission.]

SAN FRANCISCO, August 24, 1887.

RICHARD GRAY, having been duly sworn by L. S. B. Sawyer, commissioner of the United States circuit court, testified as follows:

Examined by Mr. COHEN:

Q. How long have you been connected with the Central Pacific Railroad Company or its system of roads?—A. Since March, 1874.

Q. In what capacity?—A. Part of the time as assistant general freight agent, and since May, 1882, as general freight agent.

"REBATE" A MISNOMER.

Q. Explain in what cases rebates were made in favor of any corporation, person, or persons, and whether same were made to others similarly situated or doing like business?—A. In my answer to the previous query it will be seen that the sums refunded by the Union and Central Pacific and connecting lines were not "rebates" as that word is generally understood, but strictly speaking, overcharges which were caused through error or by design for the reasons given, and which were paid on proper showing being made or certain conditions complied with. They were not in any sense railroad revenue or earnings, and therefore the term "rebate" as applied to them is a misnomer.

As before stated, contract rates were general and were accorded to all persons similarly situated or doing like business.

STANDARD OIL COMPANY'S CONTRACT.

The contract with the Standard Oil Company, about which a great deal has been said, and the circumstances attending the making of which have already been very fully explained by General Traffic Manager Stubbs, may be thought to be an exception to the foregoing, but it can be shown that the oil business, as conducted on this coast previous to the inauguration of the contract system, was a monopoly; that it had always been such; that this monopoly enjoyed from the water carriers, and still enjoys from the clipper lines, lower rates than can be secured by other shippers; and that in accepting the business in competition with Cape Horn at the rates dictated by the Standard Oil Company, plus a reasonable allowance for interest, insurance, etc., the rail lines in no wise discriminated against smaller shippers, but reduced the margin of difference in favor of the larger corporations as against smaller shippers which had heretofore existed and which now exists.

TESTIMONY OF C. M. ADAMS.

C. M. ADAMS sworn and examined.

By Mr. GOWEN:

Q. Where do you reside?—A. Saint Louis, Mo.

Q. What is your business?—A. I am secretary of the Waters-Pierce Oil Company.

Q. That is one of the companies affiliated to the Standard Oil Company, is it not?—A. Yes, sir.

Q. Do you know where Mr. H. K. Pierce is?—A. No, sir; I do not.

Q. He was subpoenaed to be here?—A. The understanding was that he was coming, but our people were away, several of them, and he found it very difficult to get away. He said he would, if it were possible for him to do so, as soon as he could be relieved a little there in the office, and I expected to find him at the train when I took the train.

- Q. When did you leave Saint Louis?—A. I left night before last.
- Q. Was Mr. Pierce there then?—A. He was at the office; yes, sir.
- Q. Have you any other reason than that why he did not obey that subpoena?—A. No, sir; I have not. He fully intended to come, and I suppose will be here yet.
- Q. What is the business of the Waters-Pierce Oil Company?—A. It is receiving and selling oil of various kinds in a general way.
- Q. Does it refine oil?—A. No, sir.
- Q. It does not deal in crude oil, does it?—A. Excuse me; I said we did not refine. We do at the present time.
- Q. Where?—A. In Mexico.
- Q. Where do you get the crude oil that is refined in Mexico?—A. We get that from the Standard Oil Company.
- Q. From the Pennsylvania wells?—A. It is shipped to us from Cleveland, part of it.
- Q. Shipped as crude?—A. Yes, sir; I can not tell you where it comes from.
- Q. By what system of transportation is it shipped to Cleveland?—A. Tank cars.
- Q. Over what length does that oil from Cleveland to Mexico extend?—A. I can not tell; I do not know the distance.
- Q. What part of Mexico?—A. The City of Mexico. I say the City of Mexico, but I believe it is just outside of the city limits, but practically in the vicinity.
- Q. Do you know what the net rate is on that shipment?—A. No, sir; I do not.
- Q. Have you anything to do with it?—A. No, sir; I did not have anything to do with the freight rates.
- Q. Now, leaving out that one venture or business in refining crude oil, your business, then, is that simply of a merchant in oils?—A. Principally that; yes, sir.
- Q. You buy oils and sell them?—A. Yes, sir.
- Q. Do you sell any oil on commission for other people?—A. No, sir.
- Q. You invariably buy and sell again?—A. Yes, sir.
- Q. Have you barreling stations where oil is barreled and distributed?—A. Yes, sir.
- Q. At how many places have you that?—A. I can not give the number; we have a good many; I can not state the number of them.
- Q. Where are some of them?—A. East Saint Louis, Springfield, Mo.; Little Rock, Ark., Dallas, Tex., Galveston and Houston.
- Q. Over what territory do you sell oil?—A. We sell oil in Missouri, not the whole of Missouri but a portion of it, and in Texas, Arkansas, and in Mexico.
- Q. Is the district in which you sell oil limited by any particular boundary east or west, or is it defined simply by these States that you have named, and Mexico?—A. We sell some in Louisiana. I did not mention that; in the western part of Louisiana.
- Q. Is your territory bounded on the east by the Mississippi?—A. We do not solicit trade the other side.
- Q. You mean on the east side?—A. Yes, sir.
- Q. You do not solicit trade on the east side?—A. No, sir.
- Q. How far west from the Mississippi River outside of that country do you go; just to the western borders of Arkansas, Missouri, and Texas?—A. We go to the western border of Texas.
- Q. Do you cover the States or Territories lying immediately west of Missouri, or do you not sell in them?—A. We do not.

Q. Now state whether or not you receive your supplies of refined oil principally in tank cars.—A. We do.

Q. From what point?—A. It is shipped from various points, Cleveland, Parkersburgh, Oil City, Pa.

Q. From whom do you receive in Cleveland?—A. From the Standard Oil Company.

Q. From whom in Parkersburgh?—A. The Camden Consolidated Oil Company.

Q. From whom in Oil City?—A. The Imperial Refining Company.

Q. What is the extent of your business per annum in barrels over your whole territory?—A. I can not say.

Q. Roughly, as nearly as you can.—A. I do not think I can approximate the figures.

Q. You are the secretary of the company?—A. Yes, sir.

Q. Do you not make up an annual report of your business, or an annual statement of your trade?—A. I do not; no, sir.

Q. Are not bills for the purchase of oils passing through your department?—A. Yes, sir; the invoices do.

Q. Can you tell us how many barrels of oil you purchase a year? I do not want it exactly. Is it 500,000 barrels?—A. Do I understand you to say the number of barrels?

Q. Yes. I do not care whether it comes in barrels or tanks, but just wish to get at the quantity of it.—A. A great deal of our business is in bulk and case oil. I do not understand you. Do you mean that which is handled exclusively in barrels?

Q. I mean the total amount of your business, and I am only using the word "barrel" as a quantity. How much oil do you handle a year, whether in tanks, barrels, or cases?

Mr. CROUSE. Measured in barrels.

Mr. GOWEN. Yes, sir.

The WITNESS. I can not answer that with any degree of certainty.

Q. To the best of your recollection or knowledge?—A. It would be mere guess work. I would say 150,000 barrels.

Q. Now, can you give us your present railroad rates on tank oil from Cleveland to Saint Louis?—A. The rate is to East Saint Louis. There is no rate to Saint Louis.

Q. What is the rate to East Saint Louis?—A. Forty-seven cents a barrel.

Q. That is in tanks?—A. Yes, sir.

Q. Is that rate made on the way-bill at a rate per barrel, or is it at a rate per tank?—A. Rate per barrel.

Q. How many barrels are calculated to a tank?—A. They vary according to the capacity.

Q. Do the way-bills also vary according to the capacity?—A. Yes, sir.

Q. When did that rate go into effect?—A. It went into effect the 5th of April.

Q. Of what year?—A. 1887.

Q. Has there been any change since?—A. No, sir; not that I know of.

Q. Do you get any rebate or allowance off of that rate?—A. No, sir.

Q. What to East Saint Louis has been your rate in barrels from Cleveland?—A. Sixty-two cents a barrel.

Q. Did you get any rebate off of that?—A. No, sir.

Q. Did that rate take effect in April, 1887, as the other?—A. Yes, sir.

Q. Has that been changed since?—A. I do not think it has. I discovered no change in our bills.

Q. You get no rebate off of that?—A. No, sir.

Q. Can you give us the rate from Parkersburgh to East Saint Louis in tanks?—A. My recollection is that it is the same.

Q. Is it the same in barrels?—A. I do not know that we have ever shipped any barrels there.

Q. From Oil City to East Saint Louis what is the rate in tanks?—A. I can not say, because we get very little from there. I am not familiar with it.

Q. Was there not a change made in your rates about March or April of this year in any way that you know of?—A. Not that I am aware of.

Q. Now, as compared with this rate of 47 cents a barrel in tanks from Cleveland to East Saint Louis which went into effect in April, 1887, what was the rate before that, the net rate?—A. I do not recollect what that was.

Q. It was considerably less, was it not?—A. I can not say now.

Q. Don't you know whether it was less or more?—A. No, sir; I do not.

Q. Do you know how the railway companies arrive at the difference of rate between 47 cents in tanks and 62 cents in barrels between Cleveland and East Saint Louis?—A. No, sir.

Q. That rate you say is still in force?—A. It was a very short time ago. The last expense bills I saw were at that rate.

Q. Have you never received barreled oil from Parkersburgh?—A. I think we have, but I can not recall any instance now.

Q. I mean since the passage of the interstate commerce act, can you give us any rate you had on barreled oil from Parkersburgh?—A. No, sir; I can not.

Q. Do you know as a fact in connection with your business, and in dealing with railroads, that the rates from Parkersburgh, Marietta, Pittsburgh and Cleveland are generally identical over the railway system of the South and West?—A. No, sir; I did not know that they were.

Q. You know that your rates are the same in tanks from Cleveland as from Parkersburgh?—A. I think they are.

Mr. GOWEN. I have no more testimony. The witnesses who have not responded are Mr. H. Clay Pierce, of the Waters-Pierce Company; Mr. Stith, assistant general freight agent, and C. G. Warner, general auditor of the Missouri Pacific Railway; H. Colbrun, the general freight agent, John C. Gault, general manager, and C. O. Harvey, the controller of the Queen & Crescent lines; R. M. Fraser, general freight agent of the Cincinnati, Washington and Baltimore; William R. Logan, and W. G. Warden, but there seems to be some doubt as to whether the latter was subpoenaed.

Mr. FLAGG. I have understood that Mr. Warden was in Mexico some time ago.

Mr. GOWEN. The subpoena is not returned, and we were told that he was at St. Augustine, Fla.

Mr. FLAGG. Well, somewhere South. I know he was absent some weeks ago, but did not know exactly where he was.

Mr. GOWEN. The testimony that would come from those witnesses is of a cumulative character, and I do not think it would be necessary to prolong the investigation by reason of their absence.

The CHAIRMAN. That being the situation, the committee will go into executive session.

Mr. SMITH. How about this gentleman, Mr. Rice, with his letters?

The CHAIRMAN. He is coming back.

(At this point the committee went into executive session, at the expiration of which the doors were re-opened and the investigation resumed.)

GEORGE RICE—Recalled.

By Mr. BUCHANAN:

Q. You have produced a number of letters here in response to my suggestion. From one dated December 14, 1880, written by A. C. Wilkerson & Co. to yourself, I read:

C. C. & Co. are threatening to ruin us in business if we don't stop selling oil, etc.

Who are C. C. & Co.?—A. Chess, Carley & Co., of Louisville.

Q. And from another letter from the same parties, dated December 27, 1880, I read:

We are reliably informed that they expect to shut off your supply of crude—rather are working to control all the crude in order to shut out outside refiners.

That refers to Carley. Is he of the same firm?—A. Yes, sir.

Q. And from another letter from the same parties, dated January 18, 1881, I read:

The idea of selling out ourselves and friends does not exactly suit us, and we don't think we are for sale.

What does that refer to?—A. I suppose it is referring to this Wilkerson & Co. I suppose they had been trying to buy them out.

Q. I am asking for your explanation of that sentence, if you have the facts by which to explain it?—A. I have nothing to explain except what the letter shows for itself. That is all.

Q. From a letter from the same parties, Nashville, Tenn., dated February 18, 1881, I read:

Railroad troubling us very much about moving oil; don't want us to keep a single barrel in depot; corporation don't want over 5 barrels at any one place inside city limits.

What railroad does that refer to?—A. Where is the letter dated?

Q. Nashville.—A. Louisville and Nashville Railroad. All oil went over the Louisville and Nashville road. That is the only line in there.

Q. Have you any more information about the action of the corporation than is here given? Did they trouble you at all about the shipments of oil?—A. In a general way. Laws had been passed by municipalities in several sections of the country by which they limited the amount of oil to be kept in stock in wholesale stores.

Q. That was done by municipal action?—A. Yes, sir; in a great many cases.

Q. From a letter from J. W. Stillwell, Hannibal, Mo., dated March 13, 1880, I read:

In regard to your oil, it would be no use to try to handle your oil here, unless you would support me in the event of a cut from Loomis & Snively, who represent the Standard Oil Company, of Cleveland, Ohio.

Where was that firm situated, and what was the fact as to their dealing in oil with the Standard Oil Company?—A. They were agents at Hannibal, Mo., at that time of the Standard Oil Company, of Cleveland.

Q. From a letter from T. K. Appler, Hannibal, Mo., dated November 15, 1880, I read:

The coal oil trade here is in a bad fix. Loomis & Snively and the coal oil inspector have been indicted by the grand jury for fraudulent inspection and gauging of coal oil; seven indictments against each of them. They gave bond for January term of court next, 1881.

Do you know the result of the trial of those indictments?—A. I can not say positively.

Q. Have you any knowledge as to the fraudulent gauging of oil?—
A. No, sir; except what is contained in that letter.

Q. Or whether it was your oil or others' oil that was fraudulently gauged?—A. No, sir.

By Mr. SMITH:

Q. Did you ship any oil there?—A. Yes, sir.

By Mr. BUCHANAN:

Q. From a letter from Kennard Bros. & Co., Omaha, Nebr., dated October 28, 1882, I read:

We would be pleased to give you part or all our trade if you are in position to make prompt shipment, and are willing to back us at any time occasion may demand. We are the only opposition the tank line has here. We have been threatened with annihilation; but as yet, no signs of war appear.

What does that phrase, if you "are willing to back us at any time occasion may demand" refer to?—A. In regard to protecting them against a fall in the prices.

Q. A protection in what way?

Mr. CROUSE. A guarantee.

Q. A protection in what way?—A. Protection to furnish them oil at all times; if they left the Standard and came over to me to buy oil that I would stand by them. I tell all inquirers that I shall sell oil down at cost, although I have to be the judge of that myself. A great many times I have that inquiry, and they tell me they will leave the Standard if I will furnish them all the time. That is impossible, for the Standard put oil down so low that I could not do it.

Q. From a letter from John C. Neal, Atlanta, Ga., dated August, 1880, I read:

I had another case tried and the jury found them guilty and judge fined them \$500. Makes in all \$1,500; they take them to the Supreme Court.

What cases are referred to?—A. The same cases he had against the Standard in Atlanta.

By Mr. GOWEN:

Q. What were they for?—A. The indictments were for selling under-test oil; that is the principal thing.

Q. Had you not better explain that the laws of most of the States fix a certain fire-test, below which it is criminal to sell oil?—A. Yes, sir; most all the States of the Union have. Some of the Southern States I do not think had a fire-test law until the last three or four years, but I believe now there is hardly a State in the Union that has not a fire-test law.

Q. State whether the object of inspection is not to see that the oil is up to that standard.—A. Certainly. The object of the inspection law is to make the oil come up to the standard test.

By Mr. BUCHANAN:

Q. From another letter from Wilkerson & Co., Nashville, Tenn., November 12, 1880, I read:

He said plainly that at any sacrifice they would keep you out.

Referring to the Standard Oil Company previously named. Have you experienced any difficulty in Nashville, Tenn.?—A. I have had an agency there for the last seven or eight years, and it was shut up last year. It was among the oldest agencies of all my agencies, and it was shut out entirely last year on account of the discriminations. I can not get in there.

By Mr. GOWEN:

Q. You mean you were excluded from doing business in Nashville?—
A. Yes, sir; within the last year, where I have had an agency for the last eight or ten years.

By Mr. BUCHANAN:

Q. From a letter from W. O. Peeples, Chattanooga, Tenn., dated January 7, 1881, I read:

"Chess, Carley & Co., on hearing that we had another car of oil on the road, stampeded and cut the price of oil that they had been selling at 21 cents to 17 cents."

Do you know of any other instances of that character?—A. At that point?

Q. At that point.—A. We have frequently had instances of that kind. I can not state any one particular instance. I have had an agency there quite awhile, but that is shut up and shut out. That has been done within the last six months.

Q. From a letter from Bittman, Taylor & Co., Leavenworth, Kans., January 12, 1881, I read:

We are now compelled to call on you for the protection you offered us on oil. The Tank Company's representative was here yesterday and offered a decline of one-half cent on oil. This will hurt us to the extent of that amount on all we have in transit unless you see fit to take care of us.

Did you take care of them?—A. We did to a certain extent, until it got down to cost, and then we quit.

By the CHAIRMAN:

Q. What was that cost?—A. I don't know what it was then, but I mean in a general way. That is our rule of staying in. We staid just as long as we could, sometimes below cost, but not a great while if we could help ourselves.

By Mr. BUCHANAN:

Q. From a letter from Bates & Blatz, Louisville, Ky., dated January 21, 1881, I read:

But we are unable to say as yet what we can do in regard to coal oil, as we are threatened in case we don't stop buying from any but the Standard Oil Company.

Have you any more information than what this letter gives you as to who threatened them?—A. No, sir.

Q. Did you have any further intimations from that firm of any interference with them?—A. I can not say, unless it is there. I can not say positively. I had to rely wholly upon those letters there.

Q. From Memphis, Tenn., is a letter dated January 24, 1881, signed Haas Bros. & Co., in which they say:

The oil business of this city is being controlled by a combination of the dealers, who "fight" any competition which may arise. It will therefore be unprofitable to have any oil on hand here, as they will cut prices below actual cost in order to control the business.

Did you ship oil to that point at that time, or about that time?—A. I think so. I judge so from that letter.

Q. From a letter from Searcy & Schuster, Louisville, Ky., dated February 4, 1881, I read:

Chess, Carley & Co. reduced oil here 2 cents per gallon, and we would like for you to put the oil that we ordered from a little less, so that we will not lose anything on it, because we could have sold it out at a profit if you had shipped immediately.

Did you have any more complaints from that point of that character?—A. I can not say.

Q. From Atlanta, Ga., is a letter of A. Haas & Bro., dated February 5, 1881, saying:

Yes, we are afraid of Chess, Carley & Co., but only to the extent that they will sell for less money than you will allow us to sell.

Do you know of any persistent course by Chess, Carley & Co. in selling at less rates than you were able to sell after payments of your price?—A. I know that was the general disposition.

Q. I am asking as to the actual competition at that point by reason of these lower rates. Was it continuous, and did it result detrimentally to your business, or did it have no effect upon it?—A. It resulted very disastrous. I think Haas & Bro. were agents for me, and I think it was only about a year that we had to wind it up. We lost money and had to quit; I had to quit.

Q. They further say:

We are meeting but one difficulty; when we approach large buyers we get this answer: "We can't afford to buy from you; we don't like Chess, C. & Co., but when they find you are getting the trade they will smash prices and Rice will drop you." Whenever we can assure the trade that we will stay in the market you may count on your getting a big part of the trade.

The Chess, Carley & Co. referred to there, are they the Chess, Carley & Co. you spoke of awhile ago as selling Standard oil?—A. Yes, sir; their headquarters are in the South there. Their territory covers east of the Mississippi and south of the Ohio.

Q. From a letter of H. M. Garlicks, Saint Joseph, Mo., dated March 3, 1881, I read:

The tank lines sent a man here—a special man—some days since; hence the cause of oil from January 28 shipment being sold so low. He went to three of the houses and got them to agree not to deal with me longer, as they only made 25 cents a barrel buying of me, and that he (the tank) would make jobbing rate to country at 17½ per 150 and 13½ per 112, and give them \$1.50 per barrel off from that, which would be 3 cents a gallon off, being 10½ and 14½ net to them.

Was this gentlemen writing this letter dealing with you?—A. Yes, sir; he was my agent, and had to stop and give it up. I had to close up the agency.

Q. How soon after the date of this letter, March 3, 1881?—A. I can not say now; but we had to wind up and close up. I could not send any more oil to him.

Q. He further says in the same letter:

On the strength of my not having any oil to-day I am told they have popped the price up 3½ cents, which is very agreeable to us if they will only hold it so.

Do you remember whether you sold to him after that date or not?—A. I do not know whether I did or not. We were sending him oil all the time, right along. He was acting as agent for me. It was closed up afterward; I don't know how soon.

Q. Were you selling as low as the price he gives here as having been offered by the tank-line people?—A. We generally followed their prices until it got too low. I don't know how low it went; but we had to close up.

By Mr. CROUSE:

Q. He was your agent?—A. Yes, sir.

Q. He was not a buyer and seller?—A. No, sir.

By Mr. BUCHANAN :

Q. Was he selling for you on commission ?—A. Yes, sir. We generally paid 50 cents a barrel.

Q. From a letter from James Brewster & Co., Council Bluffs, Iowa, dated April 16, 1881, I read :

The Standard Company is getting mad; they say every one that handles any other oil will have to sell at less than cost.

Were they your agents ?—A. They were not.

Q. They were customers of yours ?—A. Yes, sir.

Q. Did you retain your trade at that point ?—A. No, sir; we had to get out of there. I have scarcely any trade in the West.

Q. From a letter from J. Staderker & Son, Canton, Miss., dated September 14, 1881, I read :

The Standard Oil Company has monopolized the oil trade of this town, and has gouged the people to such an extent that we wish to break it down and introduce some other oils.

Did you succeed in introducing your oil there ?—A. Temporarily.

Q. Why only temporarily ?—A. We could not get the freights to compete.

Q. From a letter from D. H. Scott, New Orleans, dated November 5, 1881, I read :

In reply I beg leave to say that at present I can not accept of your proposition to deliver me oil at this time, from the fact that Carley has been down here for some time, and has by his engineering, and in consequence of the city ordinances, cut me out of storage. As matters now stand I would not be able to handle a single barrel of oil.

Did you succeed in introducing your oil there ?—A. Yes, sir; I have an agency there now, but it is not doing much.

Q. What is that ordinance matter of which he speaks ?—A. Some ordinance passed there; I can not tell just what it was.

Q. Your agent has to comply with it, does he not ?—A. Certainly.

Q. As all others would ?—A. Certainly.

Q. From a letter from Whittemore & Gordon, Little Rock, Ark., dated December 1, 1881, I read :

We wired you on yesterday that if you had not shipped the oil not to do so, as W. P. O. had cut prices against me again.

Who is W. P. O. ?—A. An agent of the Waters-Pierce Oil Company, of Saint Louis, at that point.

Q. From a letter from P. T. Norwood & Co., Jefferson, Tex., dated December 31, 1881, I read :

It will take us about a week to make the engagements and get the parties to sign a written engagement, as the Standard Oil Company will reduce their prices as soon as they hear of the engagement. We will not have any trouble to make sales as soon as we get your prices. Most of our people are anxious to get clear of the Standard Oil Company here.

Did you succeed in introducing your oil at that point ?—A. Yes, sir; we sold more or less; but got frequently driven out.

Q. In the same manner you have detailed in other places ?—A. Certainly.

Q. Do you know the Parsons Oil Company, of Saint Louis ?—A. Yes, sir; very well.

Q. Are they affiliated to the Standard Oil Company ?—A. No, sir; entirely independent and outside; but afterwards sold out.

Q. They write you, under date of January 3, 1882, as follows:

C. P. Gregory was the agent at Cairo, Ill., for Cheas, C. & Co.; the first tank car of oil he received he had it inspected and it stood 90 degrees. He at once telegraphed C. C. & Co., what it stood, and asked what he could do with it. They wired him to put in barrels, brand it 130, ship it to Tennessee and no remarks, and hereafter you need not have it tested at Cairo.

Do you know anything about that circumstance except what is here detailed?—A. No, sir.

Q. He says "Hereafter you need not have it tested at Cairo;" does he refer to their oil or yours?—A. To their oil.

Q. From a letter from J. H. Talbot & Co., Pine Bluff, Ark., dated January 11, 1882, I read:

While the merchants here would like to buy from some other than the Standard, they can not afford to take the risks of loss. We have just had an example of 100 barrels opposition oil which were brought here, which had the effect of bringing the Waters-Pierce Oil Company's oil down from 18 cents to 13, less than cost of opposition oil, with a refusal on their part to sell to any one that bought from other than their company.

Have you any observations as to that statement?—A. No; I have nothing to suggest in regard to it.

Q. Did you retain your trade at that point?—A. No, sir.

Q. Did you ever have anything of a trade at that point?—A. Just a moderate trade.

Q. From another letter from Hot Springs, Ark., dated January 16, 1882, signed by L. Stone, I read:

Since my last letter our merchants have concluded not to buy oil from Standard. I have been able to hold my own so far, but I expect to have a coal-oil war here very soon. Their agent has made threats to some of our merchants that they must or shall buy oil from them and no one else, or, if otherwise, they would come here and ruin them by fair means if they could, by underhand ways if necessary.

State whether those threats, if so made, were ever carried out to your knowledge?—A. I put some oil in there and could not stay there but a short time. I am not personally informed on the subject, but I believe it is all true.

Q. From another letter from Talbot & Co., Pine Bluff, Ark., dated May 26, 1882, I read. Referring to Waters, Pierce & Co., it says:

Their agent was here several times again yesterday and called on us. He wishes to make a contract with us and four or five other large dealers, and failing to do so in short time, he threatens opening a retail house here, put oil down from 5 and 10 cents retail.

Do you know whether that threat was carried out?—A. I do not know positively whether it was or not. I can not state now from memory. I can state here generally that the Standard put up a wholesale grocery house at Columbus, Miss., in order to drive merchants to buy their oil.

Q. From a letter from Lemuel Stone, Henderson, Tex., dated June 28, 1882, I read:

I am just in receipt of your postal concerning oil. We have been handling Waters-Pierce Oil Company's oil, paying at depot here \$2.65 per case 10 gallons. Growing tired of the extreme high prices, ordered car from Cleveland Schofield Electric Light, etc., at 20 cents per case less. This riled our friend, Waters-Pierce Oil Company, who now will sell no man who engaged in the car enterprise, and have three parties only in our town where they sell, and give it to them at \$1.75 per case, and forcing us to pay \$2.25 or get oil elsewhere. We want some company to furnish us oil. Four-fifths of the town are unable to get it.

Can you, from present recollection, state whether the price, \$2.65 per case of 10 gallons, was at that time a high price for oil?—A. Yes, sir; a very high price.

By Mr. SMITH :

Q. Do you put up oil in tin cans ?—A. Yes, sir ; two 5's in a box.

By Mr. BUCHANAN :

From a letter from Schmitt & Co., Milwaukee, Wis., dated August 12, 1882, I read :

Will you deliver and protect us on price against Standard Oil Company, etc. ?

Did you undertake so to do ?—A. I think we did ; I can not recollect positively, it is so far back.

Q. Do you know whether there was any measure resorted to to interfere with your competition at that point ?—A. No, sir ; I can not state there was.

By Mr. SMITH :

Q. Have you any agent in Milwaukee ?—A. No, sir ; we never did have. We used to sell oil direct. We used to sell more or less, but never had an agent there.

By Mr. BUCHANAN :

Q. From a letter from Gavin & Co., Memphis, Tenn., dated October 18, 1882, I read :

The Standard Oil Company has been monopolizing the oil trade of this region for some time, Memphis particularly. One day oil is up to 20 cents and over, and when any person attempts to import here, other than the vassals of the Standard Oil Company, it is put down to 7 cents per gallon. Can we make any permanent arrangements with you by which we can baffle such monopoly and not lose much ? Can you furnish the oil in car loads—tank lots ?

Did you experience any difficulty of that kind there ? Did the Standard Oil Company reduce the rates while you were in competition ?—A. Yes, sir ; I experienced a great deal of trouble in Memphis. I had an agency there, but it was bought out.

Q. Have you any knowledge other than this letter gives us of the immediate rise of oil in Memphis upon the ceasing of competition ?—A. I can say, that in a general way that is generally the case, that wherever a competition ceases oil goes back up again. Where there is no competition the prices are high all over the country, and particularly in Texas is that the case.

Q. From a letter from J. H. Garside, Atchison, Kans., dated November 15, 1882, I read :

The Standard being real jealous of their Atchison trade have had their emissaries in town unusually thick for the past two or three days ; are more scared than hurt. They made some wonderful overtures to me.

Was he dealing in oil for you ?—A. Yes, sir ; he was agent for me. We had to close up and get out. It was unprofitable. I could not make any money.

Q. From a letter from A. J. Lyndon, Newman, Ga., dated November 20, 1882, I read :

It seems, however, that Chess, C. & Co. have the oil dealers of this State so completely cooped in that they can not move. In the first place all kerosene oil must be tested in this State, and in most of the small towns the commissioner of agriculture, whose business it is to appoint inspectors, refuses to appoint an inspector. Hence, the retail dealers are compelled to order their oil from Chess & Co. in Atlanta, or buy of their agents in smaller towns, where they keep oil deposited. When this thieving law was passed I wrote to the commissioner of agriculture asking for an inspector for our town. He replied, saying that if it became necessary he would appoint one, dodging in this way the application.

Did you have any trouble with your shipments of oil to Newman, Ga. ?—A. I suppose so, but I can not recollect now distinctly in regard to it.

The trouble was general, I might say. The commissioner of agriculture of the State of Georgia only appoints a few. There is one general inspector, and he has his assistants. They only inspect oil at general receiving points, where the Standard have stationary tanks. That is about the general way. If a man wants oil inspected outside they send a man out if necessary. But it is generally done at these few central stations and the oil goes.

Q. From a letter from J. F. Blackburn, Hutchinson, Kans., dated December 28, 1882, I read :

The tank line has dropped $2\frac{1}{2}$ cents per gallon since this car arrived at Kansas City.

Did you ship oil to that point at that time ?—A. Yes, sir.

Q. And this letter refers to your oil ?—A. Yes, sir.

Q. Passing over a large number of letters which have been produced, and which all seem to be of the same general tenor, I come down now to some more recent letters, the first being from Cain & Kiernan, Natchez, Miss., dated August 11, 1887, in which they say :

No more oil wanted at present. The war has begun. We sold our C. O. and delivered at 10 cents.

What does C. O. mean ?—A. I think it is coal oil.

Q. The letter further states :

Standard has put their price at $9\frac{1}{2}$ less 50 cents rebate. We will hold off until they advance prices again.

Do you still ship oil to Natchez, Miss. ?—A. No, sir ; we are not shipping there now. I had an agency there and had to get out.

Q. The agent had to get out ?—A. No, sir ; I had to get out ; had to close up the agency.

Q. Why ?—A. The prices were cut so we could not get any money. The freights would not allow me to go in there and sell in competition with the Standard at the prices made.

Q. From a letter from G. A. Dole, Minneapolis, Minn., dated 10, 22, 1887, I read :

We have been and are engaged in a stiff contest with the Standard Oil Company, who are here as the Standard Oil Company, Vacuum Oil Company, Globe Oil Company, and Chester Oil Company. We are about ending an investigation of the Minnesota oil inspection law. Have defeated the inspector in two actions in the district court and expect to finally settle him in the supreme court next Friday. We find the inspector and his deputies are aiding the agents of the Standard Oil Company in decrying our goods and injuring our trade whenever they can.

Do you know of any further information analogous to that except what is shown by that letter ?—A. No, sir.

Q. From a letter from Sherman, Tex., dated September 20, 1887, signed by Patty & Joiner, I read :

Messrs. Eubank & Co. have handed us your letter to them of 17th instant in regard to placing some oil in this market. To do this would mean a fight with the W. P. Oil Co.

Q. Does that refer to the Waters-Pierce Company of which you have spoken ?—A. Yes, sir.

Q. Did you succeed in selling oil to those parties ?—A. I do not know whether we did or not ; I can not say.

Q. From a letter from J. M. Gaut, Knoxville, Tenn., dated 4, 29, 1887, I read :

It seems that the Standard Oil Company is not only working State legislation against us, but are monkeying with the railroad companies.

What railroad companies run into Knoxville, Tenn.?—A. The East Tennessee, Virginia and Georgia is the only road. The other connecting lines connect up to within 40 or 50 miles.

Q. Is Gaut still your agent there?—A. Until recently. We have given that up. Knoxville is the place where they put the price up 64 cents and cut the price so that we could not do business there recently.

Q. From a letter from J. M. Johnson, jr., Tampa, Fla., dated January 13, 1887, I read:

You will have to make low prices as the Standard Oil Company will fight me in oil, if I order of you.

Did you establish an agency there?—A. No, sir.

Q. Did you establish any trade there?—A. No, sir.

Q. What was the reason?—A. They were afraid to buy.

Q. I think you have testified that those letters show generally that at points where you competed with these companies affiliated to the Standard Oil Company they reduced the price of their oil to a figure less than the cost in some instances to yourself?—A. Yes, sir.

Q. And in many to a point less than it would afford you any profit?—A. Yes, sir.

Q. What generally has been their course after your competition had ceased?—A. The prices were generally advanced after competition ceased.

Q. And your business correspondence carried on through a number of years, and your general foresight from your business, enable you to say that was the general course?—A. Yes, sir; there is no question about that. Wherever we sold oil in any town throughout the United States the price was generally reduced as soon as the oil arrived there, and as soon as it is got out of the way the price is put back. People are generally afraid to take hold and buy it.

Q. Here is a letter in connection with that from Mr. Leigh, of Paducah, Ky., dated May 19, 1887, in which he says:

As soon as the Standard representative learned of the arrival of my oil he communicated with his company and to-day a representative higher in authority put in an appearance, and in company with the Paducah representative visited the trade with the information that "oil had declined," and reduced prices 1 cent per gallon, viz: 130¢ 9½ cents, etc.

The WITNESS. I have an agency at Paducah.

Q. Was this man Leigh your agent there?—A. Yes, sir.

Q. Did you continue that agency?—A. We are shipping there more or less all the time now. We ship by river. Whenever we can get oil in there by river we ship it in. If we can not get water we do not get in, and keep out temporarily. That is the way we have to work it.

Q. From a letter from F. T. Mastin, Huntsville, Ala., dated November 30, 1887, I read:

The Standard Oil Company ordered their car after I did mine, and it got here nearly a week ahead of mine. This looks "fishy" on part of L. and N. E. R.

Was the oil referred to by him purchased by you?—A. He is my agent there, and has been for several years. I never sold any oil direct. He is my regular agent.

Q. Under date of February 4, 1887, J. H. Bolton & Co., of Jacksonville, Tex., write, saying:

We learn it is possible that your oil is side-tracked on the line, that Waters-Pierco might get in their work.

Did you have any trouble with the detention of oil in transit to that point?—A. I do not know exactly in that case. We have had a great deal of trouble, and with cars that went to San Saba, Tex., we had a great deal of trouble. San Saba was off in the country some 25 or 30 miles, and we had to haul oil by wagon. It was sent to Saint Louis on the regular rate and then subject to Missouri Pacific billing to the nearest point to San Saba. Instead of that they stopped off at a station outside of it that was further off. This man to whom the car was to be delivered did not know it, and they did not notify him of it, and in the mean time the prices were lowered so that he lost money on it.

Q. From a letter from B. A. Neale & Sons, Mayfield, Ky., dated January 21, 1887, I read :

Having obtained your name and business from George O. Duncan, of our city, I write to say that the Chess Charley, or now Standard Oil Company, has for a long time been selling us oil at 11, 16, and 18 cents per gallon, but to-day they are planting an agency in our town, and propose to raise oil to 13, 18, and 20 cents. While possibly you can not afford to fight them here, still I dislike to submit to the unreasonable and arbitrary commands, etc.

Did you send them oil?—A. I do not know positively.

Q. Can you tell whether those prices quoted, which he raised to 13, 18, and 20 cents, were high or low figures?—A. I consider them high figures.

Q. From a letter on the letter-head of the Acme Oil Company, agents Ohio Oil Works, and signed "Gresham," I read :

An ex-employé of C. C. Co. informed me a few days since that the present inspection law on coal oil was framed in the office of C. C. Co.

What company does he refer to?—A. The Chess-Charley Company.

Q. Where was Gresham, your agent?—At Atlanta, at one time; but has not been for a year or two.

Q. Where is Aberdeen?—A. Mississippi.

Q. Here is one more letter from F. T. Mastin, of Huntsville, Ala., dated September 16, 1887, in which he says:

Later I saw Halsey Brothers and made them the proposition to allow them same rebate as Standard. They say, after considering the matter, they are afraid to antagonize the Standard.

Was Mr. Mastin your agent at that time?—A. Yes, sir.

Q. What rebate does he refer to? A discount on the oil or a rebate on the price?—A. A discount on the oil. I might say here that it was developed in our Interstate Commerce Commission cases that the Standard shipped all the oil to Huntsville in tank cars. It was developed in the testimony that the Standard was getting theirs shipped in there for 27½, and they were charging me 37.

Mr. GOWEN. I will offer in evidence the record of the testimony in the case of Rice v. the Louisville and Nashville Railroad Company and others, with the understanding that it shall be used only and not printed, and is not to be extended upon the record.

The CHAIRMAN. At this point the committee will adjourn subject to the call of the chair.

WASHINGTON, D. C., May 25, 1888.

The committee met at 2 o'clock p. m. Present: The chairman, Messrs. Breckinridge, Wilson, McKiuney, Grimes, Crouse, and Smith.

GEORGE RICE—(Recalled).

By the **CHAIRMAN**:

Q. Mr. Rice, when you were on the stand before, you were interrogated as to some correspondence between yourself and B. F. Mitchell, general freight agent of the Chesapeake, Ohio and Southwestern Railroad Company.—**A.** It was formerly that and changed to Newport News and Mississippi Valley—same thing.

Q. Since known as the Newport News and Mississippi Valley?—**A.** Western Division.

Q. Newport News and Mississippi Valley Company, Western Division?—**A.** Yes, sir.

Q. Does this bundle of papers which I hold in my hand contain the correspondence, or correct copies of that correspondence, to which you referred?—**A.** Yes, sir.

Q. Both sides of it; that is, to you and from you?—**A.** Yes, sir.

(Correspondence above alluded to offered in evidence, and is as follows:)

CHESAPEAKE, OHIO AND SOUTHWESTERN RAILROAD COMPANY,
Louisville, Ky., March 2, 1885.

DEAR SIR: I have instructed that your oil for New Orleans be sent via Memphis. Send me an order routing your oil via L., N. O. and T. R. R. for New Orleans. This is necessary, as Mr. Morey is endeavoring to force an advance in your rate as it is interfering with his shipments from Cleveland. Consider the information given you confidential.

Yours, truly,

B. F. MITCHELL,
G. F. and P. A.

GEORGE RICE, Esq., *Marietta, Ohio.*

MARIETTA, OHIO, *March 14, 1885.*

DEAR SIR: Your favor 2d, regarding rating New Orleans oil, at hand. Would say in confidence that on account of Mr. Ong's warehouse being on Illinois Central Railway, that I would prefer it to go in over his line, as Mr. O. writes that they would not switch for him, claiming they are too busy, etc., when once a car did go via Louisville, New Orleans and Texas, and he is also under obligations for warehouse room; but if these objections can be overcome would prefer to give you all the mileage possible. Please do not render public letters sent you from Morey & Culp, as I have answered neither of them, and only sent them to show you that they were favoring Carley and also perfectly willing and anxious to cut you out. Please hold confidential and return.

Yours, truly,

GEORGE RICE.

B. F. MITCHELL, Esq.,
G. F. A., C., O. and S. W. R. R.

LOUISVILLE, KY., *March 20, 1885.*

DEAR SIR: Have yours of the 14th. D. B. Morey, general freight agent Illinois Central Railroad, has for some time past been endeavoring to have the rates advanced from Marietta to New Orleans. Recently the Cleveland, Columbus, Cincinnati and Indianapolis, Louisville and Nashville, and Cincinnati Southern have joined the procession, and to enable you to reach the New Orleans market I thought it desirable to transfer your shipments to the Louisville, New Orleans and Texas road. You must make no explanation to the parties in New Orleans who receive the oil.

However, if you desire it to go by the Illinois Central we shall send it that way. The rate from Cleveland is \$2 per barrel, and as shipments are going by the Illinois Central road Morey thinks that the rate from Pittsburgh is entirely too low.

Will return you letters that you so kindly sent me. You need not be afraid of my making use of them as against your interest.

Yours truly,

B. F. MITCHELL,
General Freight Agent.

GEORGE RICE, Esq., Marietta, Ohio.

MARIETTA, OHIO, March 21, 1885.

DEAR SIR: Your favor 20th at hand regarding New Orleans shipments. Explanation is perfectly satisfactory. I shall say nothing to New Orleans parties. You may rest assured Carley is determined to drive me out of New Orleans, and the best way he thought was to get the rate advanced. Failing this, I look for him to attempt to buy up my customers. Should he succeed I shall then make an agency at that point, and will endeavor to have a fair share of the trade.

If I need it will you have any room for me to build a warehouse, or have you any you can rent me on one of your switches convenient to the city? Please look this matter up as soon as possible, as I want to make New Orleans a depot for Southern Texas trade, and want to be located conveniently to ship without drayage at New Orleans on the sunset route. How do you make your transfers to the Texas roads at New Orleans now, conveniently?

Yours truly,

G. RICE.

B. F. MITCHELL, Esq.,
G. F. A., C. O. and S. W. R. R., Louisville, Ky.

LOUISVILLE, KY., March 30 1885.

DEAR SIR: Have yours of the 21st, and have written the Louisville, New Orleans and Texas Railroad, asking if they could furnish you place for warehouse purposes on the Louisville, New Orleans and Texas Railroad at New Orleans. I fully agree with you that Chase-Carley are endeavoring to force you out of the market. The Illinois Central Railroad recently have become very restive regarding rates that are being made from Marietta, or I have telegrams from Chicago, New Orleans, Cleveland, and other places that unless the rate is advanced they will reduce from Cleveland. This information, however, I desire to have you consider confidential. I hope to see you before a great while, as I intend to visit your city before going to Cleveland to make some investigation.

B. F. MITCHELL,
General Freight Agent.

GEORGE RICE, Esq., Marietta, Ohio.

[Anti-Standard—Anti-Monopoly.—George Rice, proprietor.]

OHIO OIL WORKS,
Marietta, Ohio, July 24, 1885.

DEAR SIR: Mr. Rice has just returned and learned for the first time the facts about New Orleans rate. Mr. Morey informed him that you wired him about the 14th saying it was proposed to make the rate \$2 to New Orleans and \$1.50 to Memphis. Then when he got to Cincinnati Mr. Fraser told him that "his connections" raised the rates was cause of his advising us of the advance, and when asked which one, said he telegraphed Morey, who replied that it was Mitchell.

Mr. Fraser told Mr. Rice he would hold the rate open to August 1, and so advised his agent here, notwithstanding he had already received your order to hold the rates in force.

We have our warehouse ready, and first car goes forward to-morrow. The Louisville, New Orleans and Texas told Mr. Rice they would stand the transfer charges to my warehouse on Illinois Central Railway; send the cars this route, and let Mr. Morey go. Looks as though he and Mr. Fraser were working against me.

Yours, truly,

G. C. BUTTS.

B. F. MITCHELL, Esq.,
G. F. A., C. O. and S. W. R. R. Louisville, Ky

MARIETTA, OHIO, July 25, 1885.

DEAR SIR: Mr. Fraser wired Mr. Morey, who showed the dispatch to Mr. Rice, in substance, as follows: "The old rate was \$1 to New Orleans and 75 cents to Memphis. Our connecting lines notify us of an advance to \$2 to New Orleans and \$1.50 to Memphis."

Now what do you think of Mr. Fraser's giving our special away.

Yours truly,

G. RICE
BUTTS.

B. F. MITCHELL, Esq.,
Louisville, Ky.

LOUISVILLE, KY., July 29, 1885.

DEAR SIR: Have yours of the 24th stating that Mr. Rice has just learned the facts for the first time about the New Orleans rate. It is true Mr. Fraser and others did receive a telegram from me about the oil rates. However, the subject did not originate with me. My telegram to Mr. Fraser will for the present put a stop to the advance. Have written Mr. Fraser fully on this subject, and told him before any decided action was taken I would investigate the subject thoroughly and see what other parties intended to do.

As to your order, we will send your freight to New Orleans by the Louisville, New Orleans and Texas Railroad until further notice.

Yours truly,

B. F. MITCHELL,
G. F. A.

G. C. BUTTS, Esq.,
Marietta, Ohio.

LOUISVILLE, KY., July 30, 1885.

DEAR SIR: Have yours of the 25th. Do not know that it is necessary to put myself upon a cross-examination to answer questions asked by Fraser, Morey, and others. It is true that I did telegraph Fraser and Morey, but the advance was not made by me and I do not see any probability that it will be made at present. It is well sometimes to act upon suggestions made by others to ascertain just exactly how the ground lies, and I think it has been proven conclusively that Morey and other interested parties have endeavored to get advances that would absolutely force the entire traffic into their hands, but up to the present time have not succeeded.

Yours truly,

B. F. MITCHELL,
G. F. A.

GEORGE RICE, Esq.
Marietta, Ohio.

MARIETTA, OHIO, October 12, 1885.

DEAR SIR: Please name best rate on 65 barrel lots, Marietta to Arkansas City. I have a customer there who thinks he can now handle in that quantity, but 100 barrels, I fear, would be too much at a time, however, advise a rate on both quantities. I have been repairing stills and am much behind on orders. Hope to send you a good freight business, now I am again started. The agent of the Cincinnati, Washington and Baltimore here notified me that Fraser had ordered half my New Orleans shipments to be forwarded via Cairo and Illinois Central Railway. I promptly told him they were all to go via Louisville and Fulton, if Mr. Mitchell so desired, but Louisville at all events. Mr. Morey is asking for the business for all his junction points and threatening great things if I don't give him it, but as I don't use his line don't see what he can do.

Yours truly,

G. RICE.

Please trace and hurry forward shipment October 8, C. W. Hooper, Selma, Ala. Parties entirely out of oil. B. L. has been sent you.

B. F. MITCHELL, Esq.,
G. F. A. C. O. & S. W. Ry, Louisville, Ky.

LOUISVILLE, October 14, 1885.

DEAR SIR: Shipments of oil from Marietta. Have your favor 12th instant. Send your shipments forward from Marietta via Cincinnati, Washington and Baltimore and Chesapeake, Ohio and Southwestern from Louisville. We want your business and propose to take care of it, and do not want you to let others bulldoze you into sending via other routes. When you leave us you will find you are hemmed in by roads from which you can receive no favors.

Would be glad to tell you some propositions made to me, but just at present can not. "A word to the wise is sufficient." You know if they could induce us to clear our route against you they would force you to retire from the market.

Mr. Fraser has no right to forward your shipments via any particular route, and can not refuse to let your traffic go as you desire.

Yours truly,

B. F. MITCHELL,
G. F. and P. A.

GEORGE RICE, Esq.,
Marietta, Ohio.

LOUISVILLE, KY., July 10, 1886.

DEAR SIR: Have your favor inclosing copy of notice from Mr. Lucas regarding rates on coal oil to expire July 15. The recent action of the lines north of the river has forced the abrogation of all prorating arrangements south. I am not yet prepared, however, to say what rates will be, but will send you copy as soon as agreed upon.

Yours truly,

B. F. MITCHELL,
G. F. and P. A.

GEORGE RICE, Esq.,
Marietta, Ohio.

Q. You were also interrogated when you were upon the stand the last time as to certain telegrams received by you countermanding orders for oil which had been given you?—A. Yes, sir.

Q. In consequence of competition with the Standard Oil Company?—A. Yes, sir.

Q. Have you any such telegrams?—A. Yes, sir [handing telegrams to the chairman].

Q. These are copies of the telegrams received by you?—A. Yes, sir.

Q. In each instance to which these telegrams refer had you made sales of oil upon orders to the persons who signed these telegrams?—A. Yes, sir.

Q. Did you, at or after the receipt of the telegrams, learn why the orders were countermanded?—A. In a general way; I received information by letters afterwards. These telegrams came countermanding them.

Q. And did you ascertain afterwards why the countermand came?—A. In a general way. We got the news by letter that the Standard agents had been around and had threatened the trade that if they bought oil of me they would not sell them any more. We would get the information in a general way.

Q. Did you receive that in some of the instances referred to in these telegrams?—A. I think we did. I can not say positively. I am sure we did. It was generally the case that letters would follow after these telegrams and give the reason more explicitly.

(Telegrams referred to offered in evidence, and are as follows:)

[Telegram.]

GAINESVILLE, TEX., *March 17, 1884.*

GEO. RICE:

We hereby countermand our orders for oil March 14. Do not ship.

W. B. TURNER.
ROWLAND & Co.
REAGAN & Co.
CONRAD HILL & Co.
GILLEN WALTERS.

[Telegram.]

LONGVIEW, TEX., *September 25, 1885.*

GEO. RICE:

Do not ship bill of oil ordered yesterday from your agent.

WOMACK & PERRY.
F. P. HAMILL.
J. W. BORING.

[Telegram.]

LONGVIEW, TEX., *September 26, 1885.*

GEORGE RICE:

Don't ship bill of oil ordered from your agent.

MAYFIELD & LUCKETT.

[Telegram.]

LONGVIEW, TEX., *September 26, 1885.*

GEORGE RICE:

Our order for oil is hereby countermanded.

BUTTE & TANKERSLEY.

[Telegram.]

CLARKSVILLE, TEX., *November 25, 1885.*

We hereby countermand our orders for oil given your agent yesterday.

L. GOLDBERG.
SCHULTZ BROS.
S. THURMAN.
E. THOMAS.

[Telegram.]

ATLANTA, TEX., 23

OHIO OIL WORKS:

We hereby countermand our orders for oil given your agent.

SCOTT & MILLS.
SCOTT & KNOWLES.
RUAANE MORRIS.
TURNER & TAYLOR.
W. A. SCOTT & Co.
REPORL & Co.
BAILEY WILL.

[Telegram.]

SAN ANGELO, TEX., November 17, 1886.

GEORGE RICE:

Cancel my order for oil of 15th, given your Kirkpatrick.

W. S. VEER.

[Telegram.]

SAN ANGELO, TEX., November 17, 1886.

GEORGE RICE:

We hereby countermand our respective orders for oil ordered 15th.

VROMAN & NASON.
E. CARTLEDGE.

[Telegram.]

SAN ANGELO, TEX., November 17, 1886.

GEORGE RICE:

We hereby countermand our order for fifty cases oil.

SCHWARTZ & RAAS.

[Telegram.]

SAN ANGELO, TEX., November 17, 1886.

GEORGE RICE:

Cancel our orders given your Kirkpatrick 15th. We insist.

BLAKOWSKI & Co.

Q. You were also asked whether, in any instance that you know of, the price of oil was put back at any point from which you were driven out by the competition of the Standard Oil Company directly after you were driven out?—A. Yes, sir; I was asked that question.

Q. Do these letters which you now produce, or some of them, contain statements of that sort?—A. Yes, sir; there are several letters there.

Q. I call your attention to a letter written at Saint Joseph, Mo., March 3, 1881, by H. M. Garlich, in which this statement appears:

On the strength of my not having any oil to-day I am told they have popped the price up 3½ cents, which is very agreeable to us.

Who is referred to by the word "they"?—A. The agents of the Standard Oil Company.

Q. I call your attention to a letter written by W. W. Roberts, Tyler, Tex., April 27, 1881, containing this expression:

The Pierce Oil Company do their best to keep other oil out, and when they find other men offering to sell they will cut below them until he is out of their way, and then put the price up again.

Was that letter received about the time it bears date?—A. Yes, sir.

Q. And it refers to the Pierce Oil Company, which was one of the Standard Oil Company?—A. The Waters-Pierce Oil Company, of Saint Louis, a branch of the Standard.

Q. I call your attention to a letter written by W. C. Preston, Decatur, Ala., January 20, 1883:

The Standard Oil Company have advanced their prices so much of late that I am satisfied that I can sell your oil without any trouble.

Had you prior to that time furnished any oil to Decatur, Ala.?—A. I think we had.

Q. And had retired from the business?—A. That is my impression now. I judge so from that letter. I think so. It has been a good while back.

Q. I have a letter here from Mr. E. Evershed, written at Creston, Iowa, dated February 22, 1883, in which this expression occurs:

Some time since Wallace Hemly Bros. bought a car of you or some one else, and as soon as they got it here Mr. Hamilton, who is agent for the Standard Company here,

put the price down so there was no money in it for any one, and as soon as it was sold put it back to old price again.

Was that a statement referring to such a transaction?—A. That is correct.

Q. Was that your oil that had been sent there?—A. That is my impression.

By Mr. SMITH :

Q. You would not have got that letter if it had not been?—A. No, sir; I do not think I would. I can not state positively in every instance of my own absolute knowledge, but in a general way those are all letters received from correspondents we sent oils to, and some cases probably we did not furnish oil.

Q. But those letters are all addressed to you?—A. Yes, sir; all addressed to me in the way of general correspondence in our business—just came of their own free will, these expressions.

By the CHAIRMAN :

Q. I call your attention to a letter from Kimbrough & Eastland, dated Meridian, Miss., October 31, 1885 :

Your agent, Mr. A. J. Peck, is now handling Chess-Carley Company oil, has signed a contract with them for twelve months, so we are informed by Chess-Carley Company's agent. Immediately after the contract was signed by him oil which had been selling all the summer at 10 cents went to 12 and then to 13, and it now sells at 13.

Had Peck been your agent?—A. He had been before that.

Q. That is what I want to know.—A. Yes, sir.

Q. The Chess-Carley Company is one of the Standard Oil Trust Company?—A. Yes, sir.

Q. And prior to this time, October 31, 1885, you had sold oil at Meridian, Miss.?—A. Certainly.

Q. So that this rise was after you had been driven out of the market?—A. Yes, sir; that is a fact.

Q. I call your attention to a letter from B. B. Templeman, Navasota, Tex., dated December 13, 1886 :

The Waters-Pierce Oil Company sold as long as your oil lasted at \$1.50 a case (10 gallons). Now they have gone up to \$1.75, and will not sell unless you sign an obligation to buy from them and them only.

Had you prior to that time been selling oil in that market?—A. Yes, sir.

Q. And that place?—A. Yes, sir.

Q. And this rise in price followed your being driven out of the market?—A. Certainly it did.

Q. Here is a letter from S. C. Regan & Co., Vicksburg, Miss., dated March 3, 1887?—A. They were my agents and have been for several years.

Q. In this letter they write :

The Standard has only advanced their price to 10½ within the last eight or ten days. While we had oil here they sold for 9 cents.

Have you been driven out of that market?—A. We have not been driven out; we have staid there, but have not made any money; we are just keeping the agency open, but are not making any money.

By Mr. CROUSE :

Q. What is the regular retail price at that place?—A. At Vicksburg?

Q. Yes.—A. Why it varies. It runs anywhere from 9 to 12 cents per gallon.

Q. Ten and one-half cents does not sound like a big price.—A. It is not; 10½ is a low price.

The WITNESS. I also produce two recent letters relating to this subject [handing them to the chairman].

The CHAIRMAN. I will read these letters in evidence.

MARIETTA, OHIO, 5, 8, 1888.

DEAR SIR: Please advise by return mail prices to which oils were advanced after my oils were off your market, and greatly oblige.

Yours, respectfully,

GEO. RICE.

CULLERS & HENRY,
Sherman, Tex.

SHERMAN, TEX., May 11, 1888.

DEAR SIR: In reference to your inquiries concerning advances in price by W. P. Oil Company immediately on your oil going off this market, will say the advance was 5 cents a gallon.

Very respectfully, yours,

CULLERS & HENRY.

GEO. RICE, Esq.,
Marietta, Ohio.

The committee then adjourned subject to the call of the chairman.

OFFICE OF THE EXECUTIVE COMMITTEE,
Bradford, Pa., May 8, 1888.

To the members of the P. P. A. :

GENTLEMEN: Two months ago we sent you a circular letter congratulating you upon the continued success of our united efforts to reduce the stocks of oil above ground. Recent events have seemed to conspire to test to the utmost the stability of our membership, yet in no place have they faltered, and to-day we stand stronger than ever before. It is with unusual pride and satisfaction that we make note of these facts. In our last letter we reviewed the general statistical situation, and set forth the claim that "we should obtain \$1.50 per barrel for our product to make our business one of reasonable profit." Those who seek, by drilling wells or speculative manipulation, to continue this period of depression in prices until our property is drained and our wells are but junk, endeavor to discredit the above assertion. Therefore we deem it our duty to state facts which any producer or speculator can readily examine and know the truth whereof we assert.

Table No. 1 shows the cost of producing oil in the White Sand fields for the years 1883 to 1887 inclusive to be about \$1.29½ per barrel.

To become more fully informed as to the results heretofore obtained by drilling for oil in the prolific White Sand fields of the past, and the prices necessarily obtainable to continue the business, we recall statistically the former most important and productive periods in the industry.

The operations from 1870 to 1874 (date of discovery of the Bradford field) inclusive resulted in the completion of 7,020 wells and a total production of 33,078,000 barrels, a yearly average of 7,615,600 barrels, and an average of 5,424 barrels from each well drilled, or a gross income of \$16,556.76 from each well.

The average price of oil for the above five years was \$3.05½ per barrel.

It will be seen that the result in oil obtained then was about the same as now, the average output between the two periods being then 5,424 barrels per well and now 5,554 barrels per well.

During the following three years, viz, 1875, 1876, and 1877 (being also the first three years of Bradford's development), there were completed in the White Sand fields 8,066 wells, an average of 2,689 wells per year, resulting in an average yearly production of 9,616,047 barrels. The average price obtained was \$2.06½.

Thus it will be seen that during eight years' experience in White Sand fields, with an average price of \$2.68 per barrel as an inducement, the drilling of over 15,000 wells resulted in an average production of about eight and one-quarter millions per year; considerably less than one-third of our present requirements.

There were 2,191 less wells drilled in these fields in 1878 than in 1877, by reason of the fact during 1878 the price of oil only averaged \$1.50 per barrel for the first five months and was much less for the balance of the year. This practically suspended drilling.

What stronger corroborative evidence is needed to prove that oil can not even now be produced at an average price less than shown to be the cost in the Table No. 1, notwithstanding the fact that we can drill cheaper than in the former period.

During the years 1875 to 1885 the Bradford and Alleghany fields produced 138,869,000 barrels of oil at a reasonable profit.

The average price for the above eleven years was \$1.23 $\frac{1}{2}$ per barrel.

It is unnecessary to comment here upon the productiveness of these fields and the later effect that the stocks accumulated in them had on the market.

During the past thirteen years they have produced enough oil to supply, at rate of the present demand, the trade for nearly six years (five eighth-tenths years); and the White Sand fields have produced a supply equivalent to nearly four years.

While it is true that considerable money was made in these dark sand fields during earlier periods and higher prices, they are now rapidly being exhausted, and losing money on present prices by reason of the shrinkage of valuation caused by draining them of their oil.

Much of the former profits have been spent in seeking to be lucky owners of large wells in the deceptive White Sand fields.

To call to mind how necessary it is to avoid the wasting of the little oil left in these dark sand fields we give you Table No. 2, showing the cost of production in them for the year 1887, allowing for shrinkage in valuation, to be \$1.11 $\frac{1}{2}$.

The consumption for 1887 was about 27,451,000 barrels.

The White Sand productions for past five years have been 46,945,000 barrels (an average of 9,389,000 barrels per year), or a supply equivalent to one and seven-tenths years' consumption on above basis.

The total production of Bradford and Alleghany fields this year will be an equivalent of not to exceed three months' consumption.

It will be seen that even should we have prices which would warrant our producing as much oil as ever was produced in the White Sands in any one year, yet we would be drawing on our stocks over 600,000 barrels per month on an average for the first year, and more thereafter as Bradford should further decline.

In the summer of 1881 our stocks were the same as now.

That year we produced 28,883,000 barrels of oil, and the consumption was about 19,865,000.

The average price of certificates for 1881 was over 10 cents higher than for 1887, notwithstanding a reduction of 6,150,394 barrels in the stocks during the latter year.

Our production is 40 per cent. less than average daily consumption.

As nearly 60 per cent. of this product is exported, the sale of crude oil at present prices is but robbing this country of its material wealth to furnish the world an illuminant at a great sacrifice to ourselves as producers.

The history of the past seems to have been forgotten, except so much of it as refers to stocks accumulated in Bradford at a time when our consumption was very much lighter than now.

We stated on the 19th of November last and on March 6 that the cost of producing oil from the fields of our present supply was not less than \$1.17 $\frac{1}{2}$ per barrel, exclusive of the cost of the land and leases drilled. We have given much thought to the subject of cost of leases, and below give the result; your own knowledge and experience will enable you to judge as to our conservatism.

TABLE NO. 1.—Cost of producing oil in all White Sand fields for the years 1883 to 1887 inclusive.

The principal drilling during these years was done in the Cherry Grove, Cooper, Balltown, Wardwell, Thorn Creek, Kane, Tarkill, Cogley, Red Valley, Washington, Shannopin, and Pontius fields.

Number of wells drilled.....	8,452
Number of above productive.....	6,888
Number of above dry.....	1,564
Cost of drilling and completing and putting to pumping 6,883 producing wells, including bonus paid for leases upon which to drill, viz, *\$5,300 each.....	\$36,506,400
Cost of drilling 1,564 dry holes, including estimate cost of bonuses and refusals for leases, less value of machinery, etc., moved away, at *\$3,200 each.....	5,004,800

* By reason of the large amount of money expended for leases for miles around every development, it is difficult to estimate the average sum for land expenditure chargeable to each well. Our figures, we believe, are considerably less than actual cost. More than three-eighths of the new production of the past five years has come from Washington County and Thorn Creek, and in these fields, taken together, the cost of wells alone average more than the \$5,300 named; but we think it prudent to be conservative in our figures.

Total production during that period was 46,945,000 barrels. The expense of pumping and producing this oil after wells were completed, including torpedoing, etc., at 30 cents per barrel, was	14,083,580
Six per cent. interest on money invested	3,120,000
Total outlay during period	58,714,700
The above operations increased the production of these fields on basis of the output for October, 1887, 12,000 barrels daily, valued at \$450 per barrel, and to be deducted from cost	5,400,000
Total oil produced during this period	46,945,000
Less one-eighth royalty to land owner	5,868,125
Net to producer	41,076,875
Costing	\$53,314,700

An average cost of \$1.294 per barrel.

TABLE NO. 2.—Cost of producing oil from the Bradford and Allegheny fields for the year 1887.

Cost of drilling and completing 190 wells, including bonus paid for leases, at \$3,350 each	\$674,500
Cost of pumping and keeping wells in order, torpedoing, etc., at 30 cents per barrel	2,680,400
Interest at 6 per cent. on investment	983,900
The net expenditure during the year in producing 8,968,000 barrels of oil and drilling wells to assist in sustaining production	4,248,700
Add to this the shrinkage in valuation in above fields by reason of drainage of territory and decline in production (we base the shrinkage from the average of October, 1886, to the average of October, 1887, the last month previous to the shut-in movement), viz:	
Daily production for October, 1886	Barrels. 21,471
Daily production for October, 1887	22,428
Shrinkage in production	9,043
At \$500 per barrel	\$4,521,500
The shrinkage in valuation added to the net outlay makes the net cost of production	8,770,200
Amount of oil produced was	8,968,000
Less one-eighth royalty to land owner	1,121,000
Net to producer	7,847,000
The income from which, at 66 cents, the average price for the year, was ..	\$5,179,020
Net loss to producer	2,571,180
Average cost per barrel to producer, \$1.117.	

Further comments on the above tables are entirely unnecessary.

We should use our united influence to better the condition of the business in and out of the field. In this way we will have confidence ourselves and secure the confidence of others.

THE EXECUTIVE COMMITTEE.

P. S.—The Fergus farm wells and others on the adjoining leases are now being used as a scarecrow. It may be well here to refresh our memories by giving the result of wells completed last year on the adjoining (McKeown's Martin) farm, viz:

The average for July last of the five Martin farm wells was	Barrels daily. 3,081
August 19 these wells gauged	2,224 bbls.
And two new wells in sand gauged	1,097 " total.....
September 9 the above 7 wells and one new one gauged only	3,321
Last week the production of these eight wells and three others finished since on the same farm was but	1,957
	338

Notwithstanding this production, a few weeks since the floor trade was thrown into a state of fear and excitement upon the report of "a large increase" of production resulting from a torpedo being used in the Martin (McKeown) No. 5.

The Fergus well is not nearly as good a producer as Martin 5 was, and the result on her of the incoming of other wells but foreshadows the future of this present annex to the pool. It is entirely unworthy of the attention it is receiving.

THE EXECUTIVE COMMITTEE.

CORRESPONDENCE BETWEEN EDGAR HILL AND OTHERS RELATING TO OIL RATES.

[See page 458.]

LOUISVILLE, KY., April 30, 1884.

EDGAR HILL, Esq.,

A. G. F. A., C. C. C. & I. Ry., Cleveland, Ohio :

DEAR SIR: What is the lowest rate you can make on oil in car-loads from Cleveland, Ohio, to Memphis? Shipments will amount to four or five cars a week.

Let me know the lowest rate you are willing to make and guaranty until December 31, 1884. Please consider this matter confidential, and advise me at once. You can handle shipments flat; or by rebate, just as you please.

Yours, truly,

B. F. MITCHELL.

CLEVELAND, OHIO, May 2, 1884.

B. F. MITCHELL, Esq.,

G. F. A., Louisville, Ky. :

DEAR SIR: Replying to yours of the 30th ultimo, just at hand, we will make rate on oil in car-loads, Cleveland, Ohio, to Memphis, \$3 per barrel. This is the very lowest rate we have made for any one, and I think should be satisfactory.

Yours, truly,

EDGAR HILL, *A. G. F. A.*

LOUISVILLE, KY., August 23, 1884.

EDGAR HILL, *Cleveland, Ohio :*

Give the net rate you are making on coal oil to Little Rock. It will be strictly confidential.

B. F. MITCHELL.

CLEVELAND, OHIO, August 23, 1884.

B. F. MITCHELL, *Louisville, Ky. :*

We have no rate to Little Rock on oil. Rates subject to regular tariff from Memphis, Cairo, or Saint Louis.

EDGAR HILL.

D. H. Ans. to 226 C.

NEW ORLEANS, LA., May 2, 1885.

EDGAR HILL, *G. F. A., Cleveland :*

Quote rate coal oil, car-loads and less, Cleveland to Starksville, Miss.; also to Cairo for points on our line. Understand rate Marietta to Cairo 60 cents barrel.

D. B. MOREY.

CLEVELAND, OHIO, May 2, 1885.

D. B. MOREY, *New Orleans, La. :*

Coal oil Cleveland to Cairo, Ill., when for points beyond, L. C. L., \$1.30 per barrel, C. L., \$1.10 per barrel.

E. HILL.

D. H. Ans. to C. 50.

CLEVELAND, OHIO, May 5, 1885.

D. D. MOREY, *New Orleans, La. :*

If advised, will make refined oil, car-lots, Cleveland to Cairo, 98 cents per barrel, when for Starksville. Hope this will do.

E. HILL.

D. H. Ans. to 104 C.

LOUISVILLE, KY., July 13, 1885.

EDGAR HILL, *G. F. A., Cleveland, Ohio :*

Will you advance the rate on coal oil from Cleveland to New Orleans, taking effect at once, to \$3? This is same rate that will be made from Marietta to Pittsburgh.

B. F. MITCHELL.

CLEVELAND, OHIO, *July 13, 1885.*

B. F. MITCHELL, *Louisville, Ky. :*

Your telegram received. Will investigate and advise you further relative to New Orleans oil.

EDGAR HILL.

CLEVELAND, OHIO, *July 14, 1885.*

B. F. MITCHELL, *Louisville, Ky. :*

We are willing to advance the rate on oil to New Orleans just as soon as we are satisfied that the advance will be maintained from Pittsburgh and Marietta. Give me a little time, please.

EDGAR HILL.

NEW ORLEANS, LA., *July 17, 1885.*

EDGAR HILL, *G. F. A., Cleveland, O. :*

What are present coal oil rates, tanks and barrels, to New Orleans, Memphis, and Louisville?

D. B. MOREY.

NEW ORLEANS, LA., *July 20, 1885.*

EDGAR HILL, *G. F. A., Cleveland, O. :*

Please answer my dispatch 17th, asking present coal-oil rate Cleveland to New Orleans, Cairo, and Louisville. Will you route via Mattoon for Orleans?

D. B. MOREY.

JULY 20, 1885.

D. B. MOREY, *New Orleans, La. :*

Coal oil Cleveland to New Orleans, in barrels, \$1 per barrel; in tanks, \$85 per tank. Memphis, in barrels and tanks, \$2 per barrel. Louisville, in barrels and tanks, 95 cents per barrel.

EDGAR HILL.

D. H. Ans. to C. 57.

JULY 16, 1885.

R. M. FRASER, *Cincinnati, O. ; C. L. COLE, Pittsburgh, Pa. :*

We are asked to advance rate on coal oil from Cleveland to New Orleans, taking effect at once, to \$2 per barrel. Provided this is done, have we any assurance that the same rate will be made from Marietta and Pittsburgh?

D. H. 216.

EDGAR HILL.

CINCINNATI, OHIO, *July 17, 1885.*

EDGAR HILL, Esq.,

A. G. F. A., C. C. C. & I. Ry., Cleveland, Ohio :

DEAR SIR: Your telegram of the 16th, in which you say you have been asked to advance rate on oil Cleveland to New Orleans to \$2 per barrel.

I have also been asked to make rate from Marietta to New Orleans \$2, and Memphis \$1.50, and am equally interested with yourself in knowing if same proportionate rates will be made from Cleveland, Pittsburgh, and other points with which we compete, and I can only say that we have no objection to the advance, provided proportionate rates are made from and to other points.

I have already written General Freight Agent Mitchell on the subject, and await his reply. If you can give me any information on the subject I shall be glad to hear from you.

Yours, truly,

R. M. FRASER, *G. F. A.*

JULY 18, 1885.

R. M. FRASER, Esq.,

G. F. A., Cincinnati, Ohio :

DEAR SIR: Your letter of July 17. Mr. Mitchell was the party asking us to advance rates. I have the following from C. L. Cole, Pittsburgh, dated July 16: "Present net rate on oil C. L. Pittsburgh to New Orleans \$2 per barrel, and that rate will be maintained so far as we are concerned. We do not control rates from Marietta. Please confer with Mr. Fraser about rates from that point." Provided a \$2 rate can

be maintained from Marietta and Pittsburgh we are willing to take the matter up with initial lines leading from here, with a view of having same raised from this point.

You are no doubt aware that our rate has been \$1 per barrel for sometime past. When this reduction was made we asked you to advance same, without success. We are willing, however, to make another attempt, and trust you can see your way clear to join us.

Yours, truly,

EDGAR HILL, G. F. A.

[No. 7362.]

CINCINNATI, July 23, 1885.

EDGAR HILL, Esq.,

A. G. F. A., Cleveland, Ohio:

DEAR SIR: Yours 18th received. I am willing to join you in maintaining any reasonable rate that can be agreed on that will afford protection to refineries on C., W. & B. as against other localities.

I am informed that very little if any effort has been made to put Pittsburgh oil into the Southern market. Oil from Cleveland, Baltimore, and New York is the strongest competitor. I am told rate by steamer New York to New Orleans is 25 cents per 100 pounds or less than \$1 per barrel, this being a fact, how can we maintain a higher rate from this section.

I am not in favor of any hasty action in this matter, but want all the money we can get out of the traffic. In agreeing on rate per barrel the tank rate Cleveland to New Orleans, \$85 per car, must not be overlooked, as the tanks now in use carry 100 barrels or more; rates on them must be provided for at the same time.

After informing yourself about rates from New York, etc., I shall be glad to hear from you again.

Respectfully,

R. M. FRASER, G. F. A.

CINCINNATI, OHIO, August 10, 1885.

EDGAR HILL, Esq.,

G. F. A., C. C. C. & I. R. R., Cleveland, Ohio:

DEAR SIR: As arranged we will commence at once to way-bill through from Parkersburgh to Cleveland via Athens, C. H. V. & T. and C. C. C. & I. R. R.'s oil in tank cars shipped by Camden Consolidated Oil Co. to be "blind billed;" regular form of W. C. & B. way-bill will be used without rate or revenue being shown, but a notation will be made thereon as follows: "Prepaid, C. W. & B. audit office settlement." Press copy of each way-bill will be sent to Mr. B. F. Whitman, freight and ticket accountant, Cleveland. Rate and divisions will be as follows:

Parkersburgh bridge.....	\$4.00
C. W. & B.....	5.44
C. H. V. & T.....	5.52
C. C. C. & I.....	10.04
Through.....	25.00

This rate is to be kept strictly private. Please confer with freight and ticket accountant on the subject, so he can make necessary arrangements about settlement with C. F. Low, Andr. C. W. & B. R. R., Cincinnati, also instruct your agents to forward way-bills and cars without delay.

Yours, truly,

R. M. FRASER, G. F. A.

NEW ORLEANS, October 22, 1885.

A. S. WHITE,

A. G. F. A., Cleveland, Ohio:

Advise present rate coal-oil tanks and barrels Cleveland to New Orleans, Cairo, and Louisville, also advise if any arrangement regard agreed rates from Marietta.

D. B. MOREY,

October 22, 1885.

D. B. MOREY,
New Orleans, La. :

Coal oil, car-loads, Cleveland to New Orleans, \$2 per barrel, and to Louisville 95 cents per barrel. We are at present in correspondence with Marietta roads and expect to arrive at an understanding soon.

A. S. WHITE.

NEW ORLEANS, LA., October 23, 1885.

A. S. WHITE,
A. G. F. A., Cleveland, Ohio :

Coal oil still \$1 per barrel Marietta to New Orleans; Memphis 75 cents. Consigners from Cleveland complaining bitterly this discrimination. What is rate to Cincinnati?
D. B. MOREY.

CLEVELAND, OHIO, October 27, 1885.

D. B. MOREY,
G. F. A., New Orleans, La. :

DEAR SIR: Your telegram 26th to A. S. White. We are now negotiating with Marietta roads trying to get them to advance their coal-oil rate in line with ours. Our rate to Cincinnati is 50 cents per barrel in C. L. of 50 barrels and over.

EDGAR HILL, G. F. A.

CLEVELAND, OHIO, November 31, 1885.

D. B. MOREY,
New Orleans, La. :

DEAR SIR: We are working on the oil rate from Marietta now. As soon as we can answer you definitely we will do so.

E. HILL.

CLEVELAND, OHIO, November 11, 1885.

B. F. MITCHELL, Esq.,
G. F. A., Louisville, Ky. :

DEAR SIR: What is the trouble relative to rates on coal oil from Marietta? It would seem that every one is prepared to advance the rates except your interests. It would seem that there is a contract in existence via the C. W. & B. and O. & M. and your route that will have to expire before any advance is made.

Mr. Fraser telegraphs me under date of November 3, in reply to my telegram of October 27, as follows: "I do not deem it advisable to change our rates at present." Please look into the matter and advise me what the trouble is. We would like to get the rates back to line, if possible.

Yours, truly,

EDGAR HILL,
General Freight Agent.

LOUISVILLE, KY., November 18, 1885.

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio :

DEAR SIR: Answering your favor 11th instant, I am very much surprised to learn that every one else is willing to advance rate on oil from Marietta and other points and ourselves the only ones that object. Now, to get on the inside, and to know just exactly what is being done, and why, would ask who made request for advance and why request was made, and why it did not come through the proper channel when it was made.

You never found me unwilling to make revenue for the company I represent; but, on the contrary, have found me unwilling to join in any combination that would force the company I represent from the market.

When reductions were made from Cleveland I notified you in person that it was not necessary, and asked if you would not give us a share of the traffic from Cleveland via Louisville and the C. O. & S. W.

I do not think it is your intention to join in trying to force from us what little business we are getting, and I am sorry I can not come to see you, instead of writing this letter, but hope to see you in a short time.

Yours, truly,

B. F. MITCHELL, *G. F. & P. A.*

CLEVELAND, OHIO, *December 1, 1885.*

B. F. MITCHELL,
G. F. A., Louisville, Ky. :

DEAR SIR: Your letter of November 18 relative to coal-oil shipments. If you think you are the only line not willing to advance rates you are mistaken. The initial line, C., W. & B., claim they will not advance at present.

Now what I propose to do is, to put our rates back where they were, making net rate here to New Orleans \$1 per barrel. The tank rate is \$85 per tank, provided you will haul the stuff at these rates, and it meets the approval of the balance of the parties in the line.

We would like to route some of our own shipments via your road. The arrangement was made by the undersigned for the reason that we thought the rate too low. I do not understand what you mean when you ask why it did not come through the proper channel when it was made. I hope I will have the pleasure of seeing you at an early day.

Yours, truly,

EDGAR HILL,

LOUISVILLE, *December 23, 1885.*

EDGAR HILL,
G. F. A., Cleveland, Ohio :

DEAR SIR: Please let me know what rate you will make on oil shipments from Atlas Oil Company, Cleveland to Memphis. Make rate and we will prorate it with you.

Yours, truly,

B. F. MITCHELL, *G. F. & P. A.*

CLEVELAND, OHIO, *December 27, 1885.*

B. F. MITCHELL,
G. F. A., Louisville, Ky. :

Replying to yours of the 23d relative to shipment of oil from Cleveland to Memphis, Tenn., account Atlas Oil Company. Present rates are: C. L., \$2; L. C. L., \$2.50 per barrel.

Hoping same will be satisfactory.

E. HILL, *G. F. A.*

CLEVELAND, OHIO, *March 22, 1886.*

R. M. FRASER,
Cincinnati, Ohio :

Please advise correct rate on carbon oil in car-loads, per barrel, Marietta to Memphis, Tenn., and Evansville, Ind.

A. S. WHITE.

CINCINNATI, OHIO, *March 23, 1886.*

A. S. WHITE,
A. G. F. A., Cleveland :

Oil C. L. 60 barrels or over, Marietta, Ohio, to Memphis, Tenn., \$1.05 per barrel; to Evansville, Ind., 60 cents per barrel.

R. M. FRASER.

CINCINNATI, OHIO, *April 2, 1886.*

R. M. FRASER,
Cincinnati, Ohio :

Rates carbon oil, C. L., Marietta, to Vicksburg, Miss.

A. S. WHITE.

D. H. N. 727.

48 S O

CINCINNATI, OHIO, *April 3, 1886.*

A. S. WHITE,
A. G. F. A., Cleveland :
 Carbon oil, C. L., Marietta, Ohio, to Vicksburg, Miss., \$1.30 per barrel.

R. M. FRASER.

LOUISVILLE, KY., *April 26, 1886.*

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio :

DEAR SIR: Please note attached telegraphic correspondence with James Means, and I ask that you agree with lines from Cleveland as to what the rate will be, and wire James Means, telling him that you have seen this correspondence and agree with him that an advance be made from Pittsburgh. Then notify Mr. Fraser of the agreement and ask him to advance from Marietta, advising me of your action, returning correspondence, and I will assist by asking Mr. Fraser to maintain the rate, as I know we are all anxious to get more revenue out of this particular class of traffic.

Yours, truly,

B. F. MITCHELL, *G. F. & P. A.*

APRIL 22, 1886.

JAMES MEANS,
Pittsburgh, Pa. :

If rate is advanced on oil, C. L., Marietta to Memphis to \$1.75, and Mobile, New Orleans, and Vicksburg to \$2 per barrel, will you agree to advance from Pittsburgh and maintain it?

250.

B. F. MITCHELL.

PITTSBURGH, PA., *April 23, 1886.*

B. F. MITCHELL :

We would like to have the rate on oil from Pittsburgh to Memphis, New Orleans, and Vicksburg, but do not see how it can be done unless relative advance can be made from Cleveland as well as from Marietta. If it can be done we will agree to maintain any rate agreed upon.

JAMES MEANS.

APRIL 22, 1886.

FRANK KINGSBURY,
Columbus, Ohio :

Have wired James Means, proposing rate from Pittsburgh be advances to Mobile, Vicksburg, and New Orleans to \$2 per barrel, and to Memphis \$1.75, on oil C. L. We agreed to advance rate from Marietta to same figures and maintain them. Will you do so?

\$250.

B. F. MITCHELL.

COLUMBUS, OHIO, *April 23, 1886.*

B. F. MITCHELL,
Louisville :

Mr. Means's reply to you, copy of which I have, expresses my views fully.

F. H. KINGSBURY.

APRIL 23, 1886.

JAS. MEANS,
Pittsburgh, Pa. :

Rate from Cleveland and Marietta to Memphis will be \$1.75, and, to Mobile, New Orleans, and Vicksburg \$2. Will you agree to the same figures from Pittsburgh? Edgar Hill assures me that we will see rate maintained.

B. F. MITCHELL.

PITTSBURGH, April 23, 1886.

B. F. MITCHELL:

Would like to have the rates on oil from Pittsburgh to Memphis, New Orleans, and Vicksburg, but don't see how it can be done unless relative advance can be made from Cleveland as well as Marietta. If this can be done we will agree to maintain any rate agreed upon.

JAMES MEANS.

APRIL 23, 1886.

F. H. KINGSBURY,
Columbus, Ohio:

Have wired Mr. Means as follows: Rate Cleveland and Marietta will be same. Edgar Hill agrees to see rate maintained. Ans. to D. H.

B. F. MITCHELL.

APRIL 24, 1886.

JAS. MEANS,
Pittsburgh, Pa.:

Let me know what rates will be satisfactory to you from Cleveland, Pittsburgh, and Marietta. There will be no trouble in getting them maintained. Have made two propositions, neither of which is satisfactory. Now I ask that you name basis you desire.

B. F. MITCHELL,
J. M. & I. R. E.

APRIL 26, 1886.

B. F. M.:

We will be satisfied and make same rate on oil from Pittsburgh as will be made from Cleveland. I have no voice in the matter of making the rate from Cleveland, but will agree that other lines maintain whatever they may be and advise of the same

JAS. MEANS.

(Telephone by J. M. & I.)

CLEVELAND, OHIO, April 29, 1886.

B. F. MITCHELL, Esq.,
G. F. A., Louisville, Ky.:

On shipments of oil made by the S. O. Co. from here to New Orleans, La., via J. M. & I. and your road. The Standard wish to blind bill at the net rate. Have you any objection to the arrangement being made, and settlements being made through our respective auditors' departments, freight to be prepaid here of course?

Yours, truly,

E. HILL, G. F. A.

LOUISVILLE, KY., May 17, 1886

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio:

DEAR SIR: Your favor of the 29th ultimo. I am perfectly willing that you should bill oil net rate. It is necessary, however, that you let me know date billing put in effect, Cleveland to New Orleans, that all interested parties may be advised, particularly our auditor, and it will be necessary to send him legible impressions of through way-bills. Let me know if this meets with your approval and what day you desire to put the same in effect, and I will give necessary instructions.

Yours, truly,

B. F. MITCHELL,
G. F. & P. A.

MAY 3, 1886.

B. F. MITCHELL,
Louisville, Ky.:

At meeting here it was agreed taking effect May 30, the rate on oil Cleveland to Memphis would be \$1.75; to Mobile, New Orleans, and Vicksburg, \$2; provided

the rates advance from Pittsburgh and Marietta. I have advised Mr. Kingsbury and requested him to correspond with Mr. Means; also notified Mr. Fraser to advance the rate from Marietta.

EDGAR HILL.

MAY 3, 1886.

R. M. FRASER,
Cincinnati, Ohio :

At meeting held to-day it was agreed, taking effect May 10, the rate on oil Cleveland to Memphis would be \$1.75; to Mobile, New Orleans, and Vicksburg, \$2; provided the rates advance from Marietta and Pittsburgh. Have we your assurance that the rate will be advanced from Marietta in accordance therewith?

EDGAR HILL.

MAY 3, 1886.

F. H. KINGSBURY,
Columbus, Ohio :

At meeting held to-day it was agreed, taking effect May 10, the rate on oil from Cleveland to Memphis would be \$1.75; to Mobile, New Orleans, and Vicksburg, \$2; provided the rates advance from Pittsburgh and Marietta. Have we your assurance that the rates will be advanced from Pittsburgh in accordance therewith?

EDGAR HILL.

CLEVELAND, OHIO, June 7, 1886.

B. F. MITCHELL,
Louisville, Ky. :

Party here has one car oil for Memphis, contract on old basis of \$1 per barrel. Will you protect? Car to go at once.

A. S. WHITE,
A. G. F. A.

LOUISVILLE, KY., June 8, 1886.

A. S. WHITE,
A. G. F. A., *Cleveland :*

Yes, we will protect the contract on oil you have made to Memphis.

B. F. MITCHELL.

NEW ORLEANS, June 17, 1886.

EDGAR HILL,
Cleveland :

What is present coal-oil rate, Cleveland to New Orleans, barrels and tanks, and is new rate to all parties the same?

D. B. MOREY.

CLEVELAND, OHIO, June 19, '86.

D. B. MOREY,
New Orleans, La. :

The present rate on coal-oil, Cleveland to New Orleans, is \$65 per tank, and \$1 per barrel net, good to all parties.

EDGAR HILL.

NEW ORLEANS, June 19, 1886.

EDGAR HILL,
G. F. A., *Cleveland, Ohio :*

DEAR SIR: I find an occasional tank of oil from Cleveland for the Insurance Oil Tank Company, Chess, Carley & Co., reaching here via Louisville, C. O. & S. W. and L. N. O. & T. roads. As this oil has to be switched into our yards for unloading into the tanks of that company, why can not it all be sent via Mattoon? The representative of the consignees here state that they do not understand why it should come the other way.

On the 15th instant there arrived tank 3303 by the route indicated above, which we had to switch for them, which makes an extra expense unless the other route is

rebating on agreed rates. I shall be glad to hear from you regarding this, as I feel certain it is your desire to route all business via Mattoon, and I can not understand why it should be sent the other way.

Respectfully,

D. B. MOREY.

NEW ORLEANS, July 21, 1886.

Mr. EDGAR HILL,
G. F. A., Cleveland, Ohio :

DEAR SIR : I have been in correspondence with Messrs. Scofield, Shurmer & Teagle, Cleveland, regarding shipments of oil to Texas points this way, and have referred them to you for the best basis that can be named. I trust you will see that they are put on the best basis possible. We have already advised you of the best that can be done with the lines west of here.

Will you please figure with the above-named firm and see if that basis can be used, and if not, what is in the way ? Or if any basis is being used via St. Louis, and what is necessary to be done this way to meet that competition ?

The above named firm have again commenced shipping over your line and ours via Mattoon, as I have assured them that we propose keeping them on a fair working basis with other shippers, which I believe is your policy as our own.

Respectfully,

D. B. MOREY, G. F. A.

CLEVELAND, OHIO, July 30, 1886.

Mr. D. B. MOREY,
G. F. A., New Orleans, La. :

DEAR SIR : Your letter of Jan'y 21st was duly received. This firm has been interviewed and we have quoted them rates to several points in Texas via New Orleans. Think we will be able to work considerable oil that way, as long as the present rate, \$1 per barrel, Cleveland to New Orleans, remains in effect.

I am advised that the oil in Texas will not begin to move until next month.

Yours truly,

EDGAR HILL, G. F. A.

NEW ORLEANS, July 20, 1886.

EDGAR HILL :

Three cars, hundred and eight barrels oil for Septoline Oil Company, New Orleans, from Cleveland July 10, charged about one twenty-six per barrel. Why not send correction charging net rate, or will you refund shippers. Answer.

D. B. MOREY.

NEW ORLEANS, July 22.

EDGAR HILL,
G. F. A., Cleveland, Ohio :

Please answer my telegrams, 20th and 21st, regard hundred and eight barrels oil account Septoline Oil Company, New Orleans, from Cleveland, July 10th.

D. B. MOREY.

NEW ORLEANS, July 24, 1886.

EDGAR HILL,
Cleveland :

Please answer my telegrams regard one eighty barrels oil consigned to Septoline Oil Company here, from Cleveland July 10th. Important.

D. B. MOREY.

CLEVELAND, OHIO, July 24, 1886.

D. B. MOREY,
New Orleans :

Answering your message, even date, regarding three cars oil, Septoline Oil Company. Have instructed our agent to correct billing to \$1 per barrel. Oversight in not answering your message.

E. HILL.

CLEVELAND, OHIO, *August 6, 1886.*

D. B. MOREY, Esq.,
G. F. A., *New Orleans, La :*

DEAR SIR: Herewith I return letter of Chess-Carley Company, dated July 30, and in reply to your letter of August 2d, would state that there is no particular advantage that we know of via the Louisville route against the Mattoon. As expressed to you before, we would prefer to route the business via Mattoon, as there is more revenue to us, but we have to respect the shippers' request to route some of their business via Louisville and the C. O. & S. W.

Yours truly,

EDGAR HILL, G. F. A.

So far as we are concerned, the rate is the same.

CLEVELAND, OHIO, *August 21, 1886.*

D. B. MOREY, Esq.,
G. F. A., *Ill. Cent. Ry., New Orleans, La. :*

DEAR SIR: I return herewith your telegram of the 19th instant, relative to rates on oil from Cleveland to New Orleans, and would respectfully call your attention to the correspondence attached. The present rate of \$1 per barrel in C. L., and as Mr. Campbell states there is but one objection—that is his shipment of August 11, way-bill 092, for which he has issued correction on basis of the \$1 rate.

Yours, truly,

A. S. WHITE, A. G. F. A.

NEW ORLEANS, LA., *August 24, 1886.*

E. HILL,
Cleveland :

Advise lowest rate coal oil, car loads, Cleveland to Vicksburg.

D. B. MOREY.

CLEVELAND, OHIO, *August 24, 1886.*

D. B. MOREY,
New Orleans, La :

On coal-oil, C. L., Cleveland to Vicksburg, we have done no better than tariff rates, \$2 per barrel, but if you can find out that Marietta is cutting this rate we will join you in meeting it. We are unable to find out that they are. Answer.

EDGAR HILL.

NEW ORLEANS, LA., *September 21, 1886.*

EDGAR HILL,
Cleveland :

Is the tank-oil reaching Vicksburg from Cleveland, and what through rate? Also advise through rate barrel-oil to Jackson, Miss., C. L.

D. B. MOREY.

NEW ORLEANS, *September 23, 1886.*

EDGAR HILL,
Cleveland :

Please answer by telegram regarding coal oil rate to Vicksburg.

D. B. MOREY.

NEW ORLEANS, *September 25, 1886.*

ED. HILL,
Cleveland :

Please answer my telegrams relative to oil rates.

D. B. MOREY.

CLEVELAND, OHIO, *September 25, 1886.*

D. B. MOREY,
New Orleans, La.:

Oil, Cleveland to Vicksburg, \$170 per tank of 85 barrels. Cleveland to Jackson, Miss., \$1.10 per barrel to Cairo. Cleveland to Louisville, \$80.75 per tank of 85 barrels.
E. HILL.

NEW ORLEANS, *September 25, 1886.*

ED. HILL,
G. F. A., Cleveland, Ohio:

Please state coal oil rate Cleveland to Jackson, Miss., and to Cairo, when for our line. Your telegram this date badly bulled. Do not tanks now coming forward hold about 6,000 gallons, or 120 barrels, for rate named?

D. B. MOREY.

CLEVELAND, OHIO, *September 27, 1886.*

D. B. MOREY,
New Orleans, La.:

We have no through rate on oil to Jackson, Miss. Our rate to Cairo is \$1.10 per barrel. The usual capacity of cars is 85 barrels. We make rate on that basis, subject to proportion account excess.

EDGAR HILL.

NEW ORLEANS, *September 29, 1886.*

EDGAR HILL,
G. F. A., Cleveland, Ohio.:

I understand coal oil rate, car-load, Marietta to Cairo, when for our line 60 cents per barrel. We can not control business basis, one ten from Cleveland. Answer.

D. B. MOREY.

SEPTEMBER 30, 1886.

D. B. MOREY,
New Orleans, La.:

Advise who wants to ship oil from Cleveland, and I will secure it for our respective lines. Who is getting oil from Marietta? Advise as to this; I think we can shut it off.

EDGAR HILL.

NEW ORLEANS, *October 2, 1886.*

EDGAR HILL,
Cleveland:

Consolidated warehouse company, Nunoz & Sims, desire ordering from Cleveland if at equal rates with other parties. Geo. Rice shipping from Marietta. Answer.

D. B. MOREY.

CLEVELAND, OHIO, *November 3, 1886.*

D. B. MOREY, Esq.,
G. F. A., New Orleans, La.:

DEAR SIR: I enclose herewith paid freight bills, dated New Orleans, October 24, for cars C. C. C. & I. Ry., 2602, and 2561, I. C. manifests No.'s 3144 and 3143. Two car-loads oil consigned to the Consolidated Warehouse Company, New Orleans, La., shipped by Excelsior Refining Company, Cleveland, Ohio, October 15th.

We have been holding to a minimum of 60 barrels per car, but in this case shippers claim not to have understood our requirements in that direction, and as cars in question would hold but 56 or 52 barrels respectively, I have to request that you correct charges to basis of actual number of barrels, at \$1 each, sending correction to our agent at Mattoon, Ill. This is the only way I can dispose of the matter, and as other lines out of Cleveland place their minimum at 50 barrels to the car, I do not consider that I am asking anything out of the way in this. Please advise at your earliest convenience, that I may notify shippers, who are a little anxious about it.

Yours, truly,

A. S. WHITE,
A. G. F. A.

NEW ORLEANS, November.

EDGAR HILL,
G. F. A., Cleveland :

Please name rate on oil in 10-barrel lots, Cleveland, Ohio, to Jackson, Miss., with divisions; and also to Cairo.

D. B. MOREY.

NOVEMBER 18, 1886.

D. B. MOREY,
New Orleans :

Our rate on oil in 10-barrel lots, Cleveland to Cairo, is \$1.30 per barrel. On what basis can we make rate to Jackson, Miss. We have no rate.

EDGAR HILL.

D. H. Ans. to C. 247.

LOUISVILLE, KY., November 20, 1886.

EDGAR HILL, Esq.,
G. F. A., C. C. & I. Ry., Cleveland, Ohio :

DEAR SIR: Answering your favor of the 15th instant, is it your intention to refuse to pay mileage on tank-cars for Standard Oil Company to all points? I ask for this information that we may take the same position.

Yours, truly,

B. F. MITCHELL, G. F. A.

NOVEMBER 23, 1886.

Mr. B. F. MITCHELL,
G. F. A., Louisville, Ky. :

DEAR SIR: Your favor of November 20th. It is not our intention to refuse to pay mileage upon the tank-cars of the Standard Oil Company to all points.

The ground we take is that we will not pay any mileage on tanks on a rate of \$100 per tank. If we could get the rate up to anywhere near paying basis, would be willing to pay the mileage cheerfully.

Yours, truly,

EDGAR HILL, G. F. A.

NEW ORLEANS, LA., November 29, 1886.

EDGAR HILL,
G. F. A., Cleveland :

Is there any change \$1-rate, oil, Cleveland to New Orleans? Answer.

D. B. MOREY.

CLEVELAND, OHIO, November 29, 1886.

D. B. MOREY,
New Orleans, La. :

DEAR SIR: Present rate on oil in barrels, Cleveland to New Orleans, La., \$1.57 per barrel.

EDGAR HILL.

Ans. to D. H. 54 C.—11+29.

LOUISVILLE, KY., November 24, 1886.

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio :

DEAR SIR: You have recently advised me of an advance in rate on tank oil from Cleveland to New Orleans from \$85 to \$100 per car. Let me know why this advance was made, and possibly you are not aware of the fact your competitors are making a less rate; and in addition to the advance you have made will force the shipments another route, viz, Baltimore or New York. Think it would be well for you to arrange with shippers for restoration of old rates on uncompetitive business for the season around.

Also please advise me if you intend to refuse to pay mileage upon the Standard Oil Company's cars in future.

Yours, truly,

B. F. MITCHELL,
G. F. A.

CLEVELAND, OHIO, December 9, 1886.

B. F. MITCHELL,
G. F. A., Louisville, Ky. :

DEAR SIR: Your favor of the 24th was duly received. We advanced the rate on tank oil Cleveland to New Orleans to \$100 per tank, because we thought \$85 per tank too low. We also think that at rate of \$100 per tank we should not pay any mileage on tanks. This does not apply to all their shipments. On some shipments we get much better rates and can afford to allow mileage on loaded tanks.

EDGAR HILL,
G. F. A.

NEW ORLEANS, January 25, 1887.

EDGAR HILL,
G. F. A., Cleveland :

What is present rate oil in tanks and barrels Cleveland to New Orleans?

D. B. MOREY.

CLEVELAND, OHIO, January 25, 1887.

D. B. MOREY,
New Orleans, La. :

Oil in tanks, minimum 85 barrels. In barrels, minimum 60 barrels per car, \$1.57 per barrel Cleveland to New Orleans. Present rate.

EDGAR HILL.

D. H. ans. to D. H. 108 C. even date.

NEW ORLEANS, January 25, 1887.

EDGAR HILL: Your message to-day. Scofield, Shurmer & Teagle advise N. Y. P. & O. shipping oil to New Orleans \$1 barrel. Tucker advises other lines using this rate in your telegram to-day. How is it? Answer.

D. B. MOREY.

JANUARY 26, 1887,

D. B. MOREY,
New Orleans, La. :

N. Y. P. & O. assure me that they have no rate of \$1 per barrel, and I believe they are honest. They did have such a rate prior to yesterday. We will not touch a barrel for less than \$1.57, regardless of what the other roads are doing.

EDGAR HILL.

Ans. to D. H. C. 206.

NEW ORLEANS, LA., January 28, 1887.

EDGAR HILL, G. F. A. :

Have Penna. Co. also assured you of their maintaining oil rates, and what is agreement on rates from Marietta? You understand barrel rate named throws business into hands of tank shippers exclusively. Can you furnish tanks for other dealers and rates? Why can not Mattoon route secure share of business to this point? Answer.

D. B. MOREY.

MARCH 31, 1887.

R. M. FRASER,
Cincinnati, Ohio :

It is thought best, under the working of the new law, to discontinue blind way billing on and after April 5, and instructions will be issued accordingly. Do you agree with us?

EDGAR HILL.

CLEVELAND, OHIO, *April 26, 1887.*

R. M. FRASER,
G. F. A., Cincinnati, Ohio :

DEAR SIR : The last time I had the pleasure of meeting you in Cincinnati you spoke of my being likely to be summoned in the case of State of Ohio vs. The C.W. & B. Ry.

I have at last got it, and am commanded to appear before Channing & Richards, referee, on Monday, the 30th of August, at the Weddell House.

If you can consistently do so, please advise me what I am to expect at this meeting, so that I can be prepared.

Yours, truly,

EDGAR HILL,
G. F. A.

APRIL 25, 1887.

B. F. MITCHELL,
Louisville, Ky. :

Name bottom rate on carbon oil in car-loads in tank cars, Louisville to Vicksburg, Miss., Memphis, Tenn., and New Orleans.

A. S. WHITE,
A. G. F. A.

LOUISVILLE, KY, *April 25, 1887.*

A. S. WHITE,
A. G. F. A., Cleveland :

Tank cars Louisville, Ky., to New Orleans and Vicksburg \$55 per tank ; 20,000 pounds to Memphis, \$35.

B. F. MITCHELL.

CLEVELAND, OHIO, *April 26, 1887.*

B. F. MITCHELL,
Louisville, Ky. :

We also want rate on carbon and lubricating oil in barrels, car-loads, Louisville to Nashville, Vicksburg, and Memphis, Tenn.

A. S. WHITE.

LOUISVILLE, KY, *April 27, 1887.*

A. S. WHITE,
A. G. F. A., Cleveland :

Oil, car-loads, to Vicksburg, 75 cents per barrel ; to Memphis, 45 cents per barrel ; can't name rate to Nashville. Would be glad if we could.

B. F. MITCHELL.

CLEVELAND, OHIO, *April 30, 1887.*

D. B. MOREY,
New Orleans, La. :

Although we temporarily have agreed to accept business from your line destined to Cleveland and points west thereof on rates to be furnished by you at old divisions, we do not feel at liberty to name you rate via your line to Cairo or New Orleans until we have some relief from the long and short haul clause. Our rate to Cincinnati on oil in barrels, minimum 60 barrels per car, is 42 cents. In tanks, 31½ cents per barrel.

EDGAR HILL.

CINCINNATI, OHIO, *May 11, 1887.*

E. HILL :

What rate have you made on oil in barrels and tanks to Cairo, Ill. ?

R. M. FRASER.

MAY 12, 1887.

R. M. FRASER,
Cincinnati, Ohio :

Our rate on oil, Cleveland to Cairo, is, in barrels, C. L., 62 cents per barrel, and in tanks, 47 cents per barrel.

E. HILL.

LOUISVILLE, KY., May 17, 1887.

EDGAR HILL, Esq.,
G. F. A., C. C. C. & I. Ry., Cleveland, Ohio :

DEAR SIR: Please send me rates on coal oil, car-loads, from Cleveland to Louisville, Memphis, New Orleans, and oblige,
Yours, truly,

B. F. MITCHELL.

CLEVELAND, OHIO, June 1, 1887.

B. F. MITCHELL,
Louisville :

Our rate, Cleveland to Louisville, on coal oil, in car-loads, is 54 cents per barrel. We have no through rates yet to Memphis and New Orleans.

EDGAR HILL.

D. H. 603.

CLEVELAND, July 26, 1887.

B. F. MITCHELL,
Louisville :

We have had, since the 13th instant, a rate on oil in tanks 90 cents, and in barrels, C. L., \$1.20 per barrel, Cleveland to New Orleans via Ill. Cent. R. R. This tariff expires on night of August 4.

A. B. HOUGH.

Ans. to D. H. 64 C.—7—26.

LOUISVILLE, KY., July 23, 1887.

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio :

DEAR SIR: Special oil tariff No. 1 to the Southwest. Please refer to your circular letter of July 16, and let me know what rates you will make on coal oil to points named, or send me the rates you will make to Cincinnati, Jeffersonville, Louisville, Cairo, and Evansville.

B. B. MITCHELL,
G. F. A.

CLEVELAND, July 25, 1887.

B. F. MITCHELL, Esq.,
G. F. A. Louisville, Ky.:

DEAR SIR: Referring to your favor of 23d instant, present rates on oil from Cleveland to the points you mention are as follows, viz.:

To—	In barrels.	In tanks.
	<i>Per barrel.</i>	<i>Per barrel.</i>
Cincinnati, Ohio	\$0.85	\$0.26
Jeffersonville, Ind. ....	.53	.88
Louisville, Ky. ....	.52	.88
Cairo, Ill. ....	.75	.60
Evansville, Ind. ....	.62	.47

In car loads only, subject to the following minimums, viz:

In barrels, 60 barrels per car. In tanks, capacity of tank.

Yours, truly,

EDGAR HILL,
G. F. A.

LOUISVILLE, July 26, 1887.

A. B. HOUGH,
Cleveland, Ohio:

Understand you are making rate on oil in tank-cars to New Orleans 90 cents per barrel, and car loads \$1.20 per barrel via Louisville. See my letter 23d.

B. F. MITCHELL.

CLEVELAND, July 26, 1887.

B. F. MITCHELL,
Louisville, Ky.:

We have had since 13th inst. a rate on oil in tanks 90 cents, and in barrels \$1.20 per barrel, C. L., Cleveland to New Orleans, La., via Illinois Central R. R.

This tariff expires on night of August 4th.

A. B. HOUGH.

LOUISVILLE, July 27, 1887.

A. B. HOUGH,
Cleveland, Ohio:

Are rates you name in effect since 13th good via Louisville? If not, why? Don't you think we should have been advised?

B. F. MITCHELL.

LOUISVILLE, August 4, 1887.

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio:

DEAR SIR: Your favor July 25, naming rates from Cleveland to Louisville and points upon the Ohio River.

I notice you have issued tariff, naming rate on oil in tank cars 90 cents per barrel, and oil in car-loads \$1.20 per barrel, from Cleveland to New Orleans, La.

Please see my telegram to A. B. Hough, asking if these rates (July 13) are via Louisville, and if not, why?

It does look to me we should make the same rates via Louisville and our line as made via other routes, as I do not think we have thrown any obstacle in the way of granting you protection.

Yours truly,

B. F. MITCHELL, G. F. A.

CLEVELAND, August 8, 1887.

B. F. MITCHELL, Esq.,
G. F. A., Louisville, Ky.:

DEAR SIR: Replying to your letter of the 4th instant, regarding rate on oil, Cleveland to New Orleans, La., say that we did have a through rate in effect as shown, but it was withdrawn on August 4, 1887, and at the present time we are not prorating to New Orleans via any line, but in making through rates we will add the rates from Cincinnati or Louisville, whichever is the most favorable for through rates. In that way I hope considerable business will go forward via your line, as we certainly are in favor of a good share of the business going your way.

Yours truly,

EDGAR HILL, G. F. A.

CINCINNATI, OHIO, August 17, 1887.

EDGAR HILL, Esq.,
G. F. A., Cleveland, Ohio:

DEAR SIR: Will you please inform me at the earliest possible date the rates on petroleum oil in tanks, cars, and in barrels, C. L., from Cleveland to Cincinnati, Columbus, Dayton, Indianapolis, Peoria, East Saint Louis, and Cairo in effect during the years 1883 to 1886, inclusive? I will not trouble you to name the rates in effect during the entire period named, but would like the rates in effect at any given date in each year mentioned.

Yours respectfully,

R. M. FRASER, G. F. A.

CINCINNATI, OHIO, August, 1887.

EDGAR HILL,
Cleveland, Ohio:

Please answer my letter 17th, about oil rates.

R. M. FRASER, G. F. A.

CLEVELAND, August 25, 1887.

R. M. FRASER,
Cincinnati, Ohio:

am having a statement of oil rates prepared and will advise you from them.

EDGAR HILL, G. F. A.

CLEVELAND, OHIO, *August 26, 1887.*

Mr. R. M. FRASER,
G. F. A., Cincinnati, Ohio:

DEAR SIR: In reply to your favor August 17, I regret my inability to have answered sooner. The rates on oil in car-loads, in barrels or tanks, per barrel were as follows:

From Cleveland to—	Date of shipment.	In barrels or tanks.
		<i>Per barrel.</i>
Columbus	April 17, 1882, to April 1, 1887	\$0.40
Dayton	April 17, 1882, to June 15, 1883 .....	.55
Do	June 15, 1883, to June 1, 1886 .....	.50
Do	June 1, 1886, to April 1, 1887 .....	.60
Cincinnati	April 17, 1882, to June 15, 1883 .....	.55
Do	June 15, 1883, to June 1, 1886 .....	.50
Do	June 1, 1886, to April 1, 1887 .....	.40
Indianapolis	April 17, 1882, to June 15, 1883 .....	.65
Do	June 15, 1883, to June 1, 1886 .....	.60
Do	June 1, 1886, to April 1, 1887 .....	.50
East Saint Louis	April 17, 1882, to June 15, 1883	1.15
Do	June 15, 1883, to June 1, 1886	1.00
Do	June 1, 1886, to April 1, 1887 .....	.80
Cairo, Ill.	April 17, 1882, to June 15, 1883	1.40
Do	June 15, 1883, to June 1, 1886	1.30
Do	June 1, 1886, to June 1, 1886	1.10
Do	June 1, 1886, to April 1, 1887	1.00

We publish no rates to Peoria.

Yours truly,

EDGAR HILL, G. F. A.

CINCINNATI, OHIO, *October 3, 1887.*

E. HILL,
G. F. A., Cleveland, Ohio:

See your telegram to me May 12, naming rates on oil to Cairo. Have not been advised of any change. Have asked you for Cleveland oil tariff, but it has not been furnished.

R. M. FRASER, G. F. A.

CLEVELAND, *October 3, 1887.*

R. M. FRASER,
Cincinnati, Ohio:

Your message of date. On May 12 our rate on oil from Cleveland to Cairo was 62-47. Our printed tariff issued June 15 advanced rate to 75-60, which has been in effect ever since.

Will send you copy of the tariff to-day, under personal cover, and hope you will gauge your rates accordingly.

E. HILL, G. F. A.

CLEVELAND, OHIO, *October 3, 1887.*

R. M. FRASER,
G. F. A., Cincinnati, Ohio:

DEAR SIR: Agreeable to my telegram of date, I hand you herewith copy of our special oil tariff, in effect June 15, showing the following rates from Cleveland to Cairo, Ill., viz: In barrels, C. L., 75 cents per barrel; in tanks, 60 cents per barrel. Please acknowledge receipt.

Yours truly,

E. HILL, G. F. A.

LOUISVILLE, KY., *December 15, 1887.*

EDGAR HILL,
Cleveland, Ohio:

At what weight per gallon do you charge for oil in tank cars; what weight per gallon for naphtha in tank cars? What weight per barrel on oil and naphtha in barrels, car-loads.

B. F. MITCHELL.
J. M. CULP.

CLEVELAND, December 16, 1887.

B. F. MITCHELL, J. M. CULP,
Louisville, Ky. :

Your message 15th. We do not make our oil rates based on weights per gallon. Our rates are so much per barrel. The estimated weights per barrel are, in wood, 400 and in tank cars 315 pounds per barrel.

EDGAR HILL, G. F. A.

Ans. to D. H., 254 c.

CLEVELAND, OHIO, January 16, 1888.

R. M. FRAZER,
Cincinnati, Ohio :

Please name rate on coal oil, C. L., Marietta, Ohio, to Olney, Ill.

A. B. HOUGH, A. G. F. A.

CLEVELAND, OHIO, January 19, 1888.

R. M. FRAZER,
Cincinnati, Ohio :

Give route on oil, Marietta, Ohio, to Olney, Illa. See your message 17th.

A. B. HOUGH, A. G. F. A.

NEW ORLEANS, LA., March 19, 1888.

EDGAR HILL,
Cleveland, Ohio :

What are coal-oil rates—tank and barrels—car-loads and less, Cleveland and Cairo, Louisville and Cincinnati.

D. B. MOREY.

CLEVELAND, OHIO, March 22, 1888.

D. B. MOREY,
New Orleans, La. :

Your message 20th and 21st. Mr. Hill will be home to-morrow, when we will advise you fully on the oil business.

E. HILL, G. F. A.

NEW ORLEANS, LA., March 20, 1888.

E. HILL, *Cleveland, Ohio :*

What will coal-oil rate be Clev'd to New Orleans from April 1st, in face of rate from Louisville, 18 cents; Cincinnati, 22 cents? Same rate hundred tanks and barrels, C. L., which basis ordered made effective by interstate commerce? Do you propose revising to Ohio River points, and through, under their decision requiring barrels and tanks, C. L., same rate hundred? Answer.

D. B. MOREY.

NEW ORLEANS, LA., March 21, 1888.

EDGAR HILL,
Cleveland, Ohio :

Please answer regard. your making tank and barrel oil rates same to different Southern points, and what rates will be. Also, advise rates turpentine and cottonseed oil—tanks and barrels—Louisville and Cincinnati to Cleveland and Detroit. Answer.

D. B. MOREY.

CLEVELAND, OHIO, March 23, 1888.

D. B. MOREY,
New Orleans, La. :

Your messages 20th and 21st. Mr. Hill will be home to-morrow, when we will advise you fully on the oil business.

EDGAR HILL, G. F. A.

CLEVELAND, OHIO, *March 23, 1888.*D. B. MOREY,
New Orleans, La.:

Our present rates from Cleveland to Ohio, and Mississippi River crossings, in barrels and tanks, I consider to be strictly within the requirements of the law. Present rate in barrels, car-loads, Cleveland, Ohio, to New Orleans, La., \$1.20 per barrel.

Have no published tank rate; turpentine in tanks, Cincinnati to Cleveland, 20 cents; to Detroit, 25 cents per barrel; Louisville to Cleveland, \$27 per tank.

Turpentine and cotton-seed oil in barrels, car-loads, Cincinnati to Cleveland, 13; to Detroit, 14; Louisville to Cleveland and Detroit, 16 per cwt.

Cotton-seed oil in tanks, Cincinnati to Cleveland, 10; Detroit, 11; Louisville to Cleveland and Detroit, 13 cents per cwt.

EDGAR HILL, *G. F. A.*

Ans. to D. H., 269 c.

NEW ORLEANS, LA., *April 2, 1888.*EDGAR HILL,
Cleveland, Ohio:

See your dispatch, March 23. Can you now advise regard south-bound oil rates, Cleveland to Cincinnati, Evansville, Cairo, St. Louis, and New Orleans, La.

D. B. MOREY.

CLEVELAND, OHIO, *April 3, 1888.*D. B. MOREY,
New Orleans, La.:

Your message of date. My telegram, March 23d, gives full information relative to oil rates. There has been no change in the situation since then.

EDGAR HILL, *G. F. A.*

Ans. to D. H., 242 c.

COAL OIL AND LUBRICATING OIL, CLEVELAND TO NEW ORLEANS, LA.

LOUISVILLE, KY., *April 20, 1888.*EDGAR HILL,
G. F. A., Cleveland, Ohio:

DEAR SIR: Please be kind enough to refer to your specials of April 5th, 13th, and 16th on coal oil from Cleveland to New Orleans, La.

I notice specials 5 and 10 do not allow a rebate of 10 cents per barrel formerly paid, but special 13th shows this 10 cents deducted as Cleveland transfer.

Was glad to see the interstate bill had done away with this pernicious practice, and I would ask if this 10 cents per barrel is paid to the shippers, and if all shippers receive the same, and is it generally known this amount is allowed? Has not this 10 cents per barrel been allowed by request of Standard Oil Company as a compensation for facilities?

There are a great many questions being asked about this matter at present, and I am particularly anxious to know, so we may feel safe in answering, knowing our answers are correct.

Yours, truly,

B. F. MITCHELL, *G. F. A.*CLEVELAND, OHIO, *April 25, 1888.*B. F. MITCHELL, Esq.,
G. F. A., Louisville, Ky.:

DEAR SIR: Referring to your favor of 20th instant, relative to the deduction from through rate, before prorating, of 10 cents per barrel on shipments of oil from Cleveland to cover expense of maintaining oil shed.

You certainly have a wrong impression in thinking that this amount goes to shippers as rebate or allowance. Such is not the case. They have no interest in it whatever, and as above stated, it is simply applied for the maintenance of an oil shed, which we are obliged by a city ordinance to furnish as a protection against fire. It is possible that we may arrange within a few days to do away with this expense or rather shoulder it ourselves.

Yours, truly,

EDGAR HILL, *G. F. A.*

CINCINNATI, WASHINGTON AND BALTIMORE RAILROAD COMPANY,
OFFICE OF THE GENERAL FREIGHT AGENT,
Cincinnati, August 5, 1885.

GEORGE RICE, Esq.,
Marietta, Ohio :

DEAR SIR: Yours 25th found on my return from the East Monday, 3d. The first information that I had of dissatisfaction regarding the rate on oil was a message from G. F. A. Mitchell, July 3, which read as follows:

"Referring to rates on oil from Marietta, we want them advanced upon basis of \$2 per barrel from Cleveland and Marietta to New Orleans and \$1.50 to Memphis."

On the 16th I received a message from Edgar Hill, Cleveland, as follows:

"We are asked to advance rate on oil from Cleveland to New Orleans, taking effect at once, to \$2 per barrel. Provided this is done, have we any assurance that the same will be made from Marietta and Pittsburgh?"

The above answer your question as to who suggested an advance be made.

On receipt of these telegrams I immediately notified Agent Lucas, so as to protect ourselves, as well as shippers, and then took up the subject with the other parties interested.

The result is that no advance will be made at present, and the condition of affairs remains same as before, Agent Lucas having been notified on the 29th that, until further notice, to continue present rates on oil to Memphis and New Orleans.

These rates as well as all others are subject to change when circumstances require, it being our desire and intention at all times to protect our shippers to the best of our ability.

If the above information is of any value to you, you are welcome to it.

Yours, truly,

R. M. FRASER, G. F. A.

WASHINGTON, D. C., July 20, 1888.

The committee met at 11 o'clock a. m. Present, the chairman, Mr. Smith, Mr. Hopkins, Mr. Orouse, Mr. Bunnell, Mr. Breckinridge, Mr. Wilson, Mr. Grimes, and Mr. McKinney.

HENRY M. FLAGLER—Recalled.

By Mr. GOWEN:

Q. Mr. Flagler, you are now a witness on your own behalf. You can go on and state what you desire to state. I shall not attempt to lead you by asking questions.

Mr. CHOATE. May we suggest to him the lines upon which we think his statements would be important?

The CHAIRMAN. I do not think the committee desire to have the intervention of counsel here with regard to any of the subjects about which it is investigating, other than the counsel of the committee, Mr. Gowen. Of course gentlemen will understand that as being respectful to them and not being a suggestion of our unwillingness to see them here or to be aided by them.

Mr. SMITH. Will the chairman read off the first article there?

The CHAIRMAN. I think the orderly conduct of the investigation will best be preserved by an examination.

Mr. GOWEN. I will put any questions which you gentlemen want to have put.

Mr. CHOATE. I do not think the committee ought to allow the witness to be subject to examination without being defended by the committee or by us, unless he makes the statement in detail.

Mr. GOWEN. I suggest that Mr. Flagler go on and tell his story without any questions from me. If I have any cross-examination I will do it afterwards.

Mr. CHOATE. We have certain propositions of fact which we think he can prove. If you will let him be examined by some member of the committee or by the chairman you can then take any statement from him. We think that will be pertinent to this examination. We do not want to intrude, but we want the witness examined so that the facts may come out.

By the CHAIRMAN:

Q. Mr. Flagler, were you one of the stockholders and one of the officers of the Standard Oil Company of Cleveland?—A. Yes, sir.

Q. What time did your connection with that concern begin?—A. With its creation.

Q. What was that date; it has escaped my memory?—A. I think in the winter of 1870.

Q. And up to what time did it continue?—A. It continues now.

Q. You are still an officer of that company?—A. I beg your pardon. I understood you to say what time it continued. No, sir; I am not.

Q. Are you familiar with the business of that company and the manner in which it is done?—A. I am.

Q. And have you been since 1870?—A. Until within the last two years, perhaps—the time that I left the company.

Q. Now, prior to October 1874, what was the business of the Standard Oil Company at Cleveland; what did it buy and what did it sell?—A. It bought crude petroleum, refined it and sold it; sold refined oil and the products derived from it.

Q. From what field did it get its crude petroleum?—A. Pennsylvania.

Q. How, by what lines of transportation?—A. By railroad.

Q. Can you state what railroad?—A. I may not be absolutely certain if you confine me to years, but it is my impression that we received our crude petroleum by way of what was then known as the Atlantic and Great Western, and the Lake Shore and Michigan Southern. Those were the only two roads running into Cleveland from the oil regions of Pennsylvania, and we did business by both roads.

Q. Where was your refined product marketed?—A. New York, Philadelphia, and Cleveland.

Q. How was it transported from Cleveland from your refinery to these markets?—A. When I say Cleveland, that includes sales made at Cleveland—that includes sales made at Cleveland for all local distributive points in the West, South, etc. The distribution of the oil west was by railroad; some of it by lake. To the sea-board it went by rail, some of it; some of it by lake to Buffalo, and by canal from Buffalo to New York.

Q. What railroads did you ship your refined oil over going eastward?—A. By the Atlantic and Great Western, that was then the connection of the Erie road; by the Lake Shore and Michigan Southern, which was the western connection of the New York Central; and by the Cleveland and Pittsburgh, which was the connection of the Pennsylvania Railroad.

Q. Up to October, 1874, can you state the aggregate of your shipments over the Pennsylvania Railroad?—A. We never shipped by the Pennsylvania Railroad. Rather, the first shipments made by the Pennsylvania Railroad, were in the year 1873, and those amounted to 21,037 barrels.

Q. Were all the shipments over the Pennsylvania road made by the Standard Oil Company of Cleveland up to October, 1874?—A. Yes, sir; and I think up to the early period of 1875; up to the time, whatever the date was, when we made a contract with the Empire Transportation

Company, which was at that time the transportation line operating over the Pennsylvania Railroad. I think that was in 1875.

Q. Now up to this date which you furnish me here, October 15, 1874, had the Standard Oil Company of Cleveland any business arrangements, combinations, with any other refinery?—A. No, sir.

Q. In the nature of a partnership, or in the nature of any such combination as has grown into the Standard Oil Trust?—A. No, sir.

Q. It was then a competitor with all other refineries in New York?—A. It had several of its own refineries. It was a competitor with probably twenty other refineries in Cleveland, and perhaps fifty others scattered in other parts of the country.

Q. You say it had several refineries. Were they all standing in the name of the Standard Oil Company of Cleveland, and all in Cleveland?—A. Yes, sir.

Q. So that simply means there were several buildings in which you were carrying on the business of a refiner?—A. We had several detached refineries in Cleveland, all owned by the Standard Oil Company.

By Mr. GOWEN :

Q. When did the Standard Company of Ohio first enter into an alliance with other refineries?—A. If you mean by an alliance, Mr. Gowen, I should say never.

Q. I am only endeavoring to aid your friends in getting at what they want. Here, I notice, they propose to prove by you—I will give it in this way that on account of the disastrous condition of the refining business, the Standard, on October 15, 1874, entered into an alliance with a number of Pittsburg refineries?—A. That is more correctly stated by saying that the Standard Oil Company purchased the refineries owned by the parties in Pittsburg.

Q. Who were they?—A. Lockhart, Frew & Co., I think was the company. Wait a moment. It was the Standard Oil Company of Pittsburg, it being a corporation, and Warden, Frew & Co., of Philadelphia, and, I should say, Charles Pratt & Co., of New York.

Q. Any others?—A. That is all.

Q. All those gentlemen, Warden, Frew & Co., and the Standard Oil Company of Pittsburg, the Charles Pratt & Co., of New York, are now associated with you as parties interested in the present oil trust?—A. They are stockholders. The property formerly owned by them was at that time purchased by the Standard Oil Company.

Q. When you speak of purchasing their interest, you do not exclude them from their interest? They united with you and remained as your associates in the business?—A. If it was not from the fact that ours was a corporation, we might call it a copartnership.

Q. They becoming interested in yours, and you in theirs?—A. Yes, sir.

Q. And you simply used your name to represent the joint ownership, as it was a corporation?—A. Yes, sir.

Q. Now, up to the time at which you acquired the interests in those three concerns that you have named, and when you were doing business as the original, simple Standard Oil Company of Ohio, in Cleveland, these other concerns were also doing business in Pennsylvania in their own names, entirely independent of you?—A. Charles Pratt & Co. were not. They were doing business in New York. Warden, Frew & Co. were—

Q. And Lockhart, Frew & Co.?—A. Yes, sir; in Pennsylvania.

Q. Lockhart, Frew & Co., in Pittsburg, and Warden, Frew & Co.,

in Philadelphia, both of whom are now associated with you and owners of an interest in the Standard Trust Company, were at that time, and before you had any connection with them, doing business over the Pennsylvania Railroad and its branches, were they not?—A. Oh, yes; they must have been. I knew nothing about it. I assume they did, because I know of no other way, they could ship their goods except by the Pennsylvania road.

Q. With their transactions over the Pennsylvania Railroad and their transportation, either of crude or refined, over the lines of that company, you had nothing to do?—A. Absolutely nothing; no knowledge of it.

Q. Nor had you anything to do with that business until the time you secured it by this arrangement of which you speak?—A. I think I have testified that the Standard Oil Company of Cleveland shipped in the year 1873 some thirty-one thousand barrels of oil; but that was prior to the union of which I have spoken, occurring in 1874.

Q. That was the Standard Oil Company of Ohio. I am asking if you had any knowledge or participation in the business conducted over the Pennsylvania Railroad by these other refineries prior to the time you acquired an interest in it?—A. We had no knowledge of our participation in it.

Q. How many years did Lockhart, Frew & Co., or Warden, Frew & Co., do business in Pennsylvania before the period when you merged with them or acquired their interest?—A. I am unable to answer that question.

Q. Several years, was it not?—A. I suppose so. My connection with Rockefeller in the oil business, which was first a partnership, began in 1877; and my recollection, in a general way, is that Warden and Lockhart were in the oil business at the time that I went into the business with Rockefeller, before the creation of the Standard Oil Company.

Q. Were they not in business on their own account contemporaneous with your entering in it, or even before?—A. That is what I say; my general remembrance is that they were. I recall them as of my earlier acquaintances in the business.

Q. I find here as the third item on this memorandum of the matter to be proved by you, which your friends have presented, that the first contract made with these rival refineries for shipment over the Pennsylvania Railroad was July, 1875. This contract was made by or through the Empire Transportation Company, a rival in business. Have you anything to say on this subject?—A. Only this, that we made an agreement with the Empire Transportation Company for shipments over the Pennsylvania Railroad on behalf of the Pennsylvania interests, which were then owned by the Standard Oil Company, simply because there was no alternative. It was the only vehicle by which these Pittsburgh refineries and the Philadelphia refineries carried their crude oil over the Pennsylvania Railroad. There was no other medium by which business could be done over the Pennsylvania Railroad except through the Empire Transportation Company, a subsidiary company of the Pennsylvania Railroad Company. The Empire Transportation Company was not only the owner of pipe lines in the oil regions, and tank-cars on the Pennsylvania Railroad, but also of refineries at Philadelphia and New York, and to that extent were our competitors. We, having no interest whatever in transportation, naturally felt jealous of the Empire Transportation Company, and drew the attention of the northern lines. By that I mean the New York Central and the Erie railroads. With the peculiar position of the oil business on the Pennsylvania Railroad, their attention was called to this very soon after the Empire Transportation

Company began the business of refining. The position taken by the two northern trunk lines in their intercourse with the Pennsylvania Railroad, as was admitted by Mr. Cassatt in his testimony, and stated to me by the representatives of the two northern roads, Mr. Vanderbilt and Mr. Jewett, was that it was unfair to them that the Pennsylvania Railroad did not divest itself of the manufacturing business; and the outcome of that was the sale by the Empire Transportation Company, in 1877, I think, of its refining plant and pipe lines to the Standard Oil Company interest, and its cars to the Pennsylvania Railroad. Since that time, to the best of my knowledge and belief, the Pennsylvania Railroad has had no interest, directly or indirectly, in the manufacture of petroleum, or in its merchandising, and has stood precisely upon the same plane that the New York Central and Erie and the Baltimore and Ohio did.

Q. The sale has already been testified to by Mr. Potts. Here I find, as the fourth item in this memorandum, that under this contract the Standard received no preferences, but believed it was constantly discriminated against. Do you desire to say anything upon that subject?—A. Yes. As I say, we were unable to obtain rates through the Empire Transportation Company over the Pennsylvania Railroad for the Pittsburgh or Philadelphia refineries as low as were given by competing roads, and from the fact that the business during those years was so very close as to leave scarcely any margin of profit under the most advantageous circumstances, and we finding ourselves undersold in the markets by competitors whom we knew had not the same facilities in the way of mechanical appliances for doing the business, there was but one conclusion to be reached, and that was that the Empire Transportation Company favored certain other shippers, I would say favored its own refineries to our injury. That, of course, was the main point which brought about the issue in 1877.

Q. Finding that, you brought about this purchase of the refineries of the Empire Line and the purchase of the cars by the Pennsylvania Railroad?—A. I should say that our business from Cleveland and other points being very much larger, or rather being probably a very large percentage of the whole oil business, the Pennsylvania road was naturally desirous of our shipping other oils by its lines than those needed by the Philadelphia refinery and the Pittsburgh refinery. We were unwilling to do that so long as the transportation lines over the Pennsylvania Railroad were our competitors as manufacturers, and said that openly and a number of times that we were unwilling to ship by them and did confine our shipments to other routes than the Pennsylvania Railroad. It was the desire on the part of the Pennsylvania Railroad to have a portion of our other business that induced them to bring about this negotiation with the Empire Transportation Company, and we yielded to their most urgent persuasions. We did not want the property, but they insisted upon it that we should buy it. We did yield to their persuasion and purchased that portion of the Empire Transportation Company's property, meaning the local pipe lines in the oil regions. We had stated in earlier discussions with representatives of the Pennsylvania Railroad we were willing to buy the refineries owned by the Empire Transportation Company, but as we were not interested in transportation at all, we wanted them to pay for the pipe lines and own them themselves; but we finally yielded that point.

Q. You advanced some considerable money, did you not, to enable the Pennsylvania Company to purchase the tank cars? You took car trusts?—A. We took car trusts issued on those cars.

Q. Practically you put the capital in?—A. We put the capital in. We paid them for the refineries, paid them for the pipe lines, and we purchased for cash—there were two car trusts created, one for the tank cars, and one for the merchandise cars—and we paid cash for the car trusts that were based upon the oil cars.

Q. Those were redeemed from time to time?—A. Yes, sir; there was a car trust made, and we simply furnished the money, and those were redeemed according to the contract with the company.

Q. Do you remember what interest they bore?—A. Six per cent., I think.

Q. They were redeemed every year by them; their proportion?—A. I do not remember.

Q. They have all been redeemed?—A. Yes, sir; all have been redeemed. I suppose they are now owned by the Pennsylvania Railroad Company.

Q. The next item I have in this memorandum is that in March, 1877, the Standard Oil Company ceased to do business over the Pennsylvania Railroad and did not resume business until October, 1877. Have you anything to say upon that subject?—A. That is the period of time I speak of. We shipped no oil over the Pennsylvania road because of the belief entertained by us that the Empire Transportation Company was discriminating against us in the matter of shipments, and we did no business whatever with the Pennsylvania road until after the first of October, 1877.

Q. State whether or not at that time the oil which the Pennsylvania Railroad carried in its crude form to New York did not leave the Pennsylvania Railroad proper at Harrisburg and go to New York by the Reading road and the Central New Jersey, over what was then known as the Allentown line?—A. I only know that by hearing Mr. Cassatt say so. I do not know what route it came over to New York, but my general remembrance is that the Reading and its eastern connection was the connection of the Pennsylvania road. In other words, that they got only a portion of the haul of that oil.

Q. Do you know whether at that time the Reading road had connection with what was then known as the New York and Erie road?—A. May I ask was that connection at Waverly?

Q. Yes; that was one of them through the Lehigh Valley.—A. I do not remember. I never was through that country; that is the reason I do not know.

Q. Have you any knowledge of this fact: that while you were excluded from the Pennsylvania Railroad by this discrimination in favor of the Empire Line and its affiliated refineries—A. Its own refineries?

Q. Its own refineries?—A. Yes; and while oil which the Pennsylvania Railroad or the Empire Line carried to New York passed over the Reading Railroad from Allentown to New York, that at that time your company applied to the Reading Railroad Company; they agreed to carry your oil over that line as cheap as they carried for the Pennsylvania, and your oil did then come into the Reading system by means of the Lehigh Valley and the New York and Lake Erie, and you therefore by that method were enabled to get into New York as cheaply as the Pennsylvania Railroad was carrying the oil of the Empire Line?—A. I do not know of that. I do not know why we should have sought that. I recall now, since you speak of it, that we wanted to make shipments of oil to Philadelphia, and my remembrance is that that oil went by way of the New York Central road to some point where it touched the Le-

high Valley; that the New York Central undertook to carry the oil for us to Philadelphia, but I never met any person I remember connected with the Reading Railroad on that matter of refined shipments to Philadelphia.

Q. At that time, between March, 1877, and October, 1877, were not your Philadelphia transporting interests under the charge principally of Mr. Warden?—A. Oh, yes; I have no doubt they were.

Q. You never lived in Philadelphia?—A. No, sir.

Q. Nor had you an office there?—A. No.

Q. You had no general charge of the negotiation for rates?—A. Nothing to do with it.

Q. Is Mr. Warden here now?—A. He is in the North somewhere.

Q. He is not in Washington?—A. No, sir.

Q. Now, the sixth item upon this list is that the agreement of October 17, 1877, stipulated for a 10 per cent. commission, but it is believed that others got equal if not better rates. This agreement was abandoned in 1879, and since the Standard has received no preferences. Do you desire to state anything upon that subject?—A. I would like the privilege of explaining about that 10 per cent. commission. The railroad companies, as perhaps Mr. Gowen will remember, be at that time having been head of the Reading Railroad, tried and did agree among themselves for divisions of the oil business. I know that they agreed among themselves that a certain percentage of it the New York Central should take; a certain other percentage the Erie should take; a certain other percentage the Pennsylvania Railroad should take, and a certain other percentage the Baltimore and Ohio should take. We were only anxious that uniform rates should be maintained by these roads. All these roads, and each one of the roads, found it impossible to secure the divisions of the business as they had agreed upon. Notwithstanding, we co-operated with them, for we were heartily in favor of its being done and were only seeking for a uniformity of rates by the different roads. But as any gentleman connected with railroad interests well knows that there always is that desire to get more than belongs to the line. That desire kept cropping out in the practical shape of cutting under rates for the sake of getting a little more, each road feeling that it was not getting enough to insure it its percentage. The Standard Oil Company at that time owned a very large percentage of the entire oil traffic. It was possible for it to do a service for the roads that the roads were unable to do for themselves. That service, however, involved a good many hardships.

The practical working of it was this, that at the end of each month after the arrangement had been made, each of these railroad companies, they first having agreed how they would divide among themselves and not seek to go beyond that certain percentage—at the end of each month each railroad company sent to us a statement of the number of barrels of oil they had transported during the month. It was incumbent upon us during the succeeding month to ship over the road or roads which had received less than its percentage an amount during that following month sufficient to bring up the deficit of the previous month. Undertaking to do that meant, as I well knew at the time, a responsibility imposed upon us, and an obligation to run refineries at certain localities which perhaps at the time it was unprofitable for us to run. It meant a steady continuance of a large volume of business at periods of time when it might not be profitable to run them; and if the gentlemen of the committee will bear with me just a moment you will see the difficulties. It was not only the three trunk lines—the New York Central,

terminating at Buffalo, the Pennsylvania, terminating at Pittsburgh, and the Baltimore and Ohio, I don't know where—but there came in their western connections. I remember well the New York Central had two; the Lake Shore was its connection west of Buffalo to Cleveland, and the Dunkirk and Alleghany Valley was its western division to the oil region. It was not an easy matter, for we had not only to regard the percentage delivered at the sea-board, but we had to try to keep the Lake Shore satisfied with its proportion, the New York Central's proportion, and the Dunkirk and Alleghany Valley's proportion. As I say, it was no light task, and realizing that, I said to these gentlemen, "we will undertake to do this business for you, to secure to each one of you the percentage which we may have agreed upon, upon condition that we are paid for that service a sum which shall be equal to 10 per cent. of the rate you receive for doing the business." There were, however, to be added to what I have already stated as an inducement for the railroad companies to pay that commission, other agreements, one of which was that we assumed the risk of loss by fire in transportation. That may seem to be to the gentlemen of the committee a cheap thing to do, but Mr. Gowen understands, as well as I do, that a railroad company can not divest itself of the obligations by the common law imposed upon it as a common carrier without a special agreement to that effect. We took that risk, and did not collect from the railroad companies, any of them, any losses sustained by fire in transit. We furnished terminal facilities at the sea-board free of charge to the railroad companies, and for all this service the Pennsylvania Railroad agreed to pay us a commission of 10 per cent. We carried out our part of the contract faithfully, and secured to the roads such a division of the traffic as kept them in a state of accord and peace, so far as quantity was concerned, and yet the Pennsylvania Railroad paid to other shippers than ourselves a rebate or a drawback, or whatever you choose to call it, on their shipments which were exactly equal to the 10 per cent. they agreed to pay us. So that in that respect we were not favored at all.

Q. You have spoken of the percentages that existed between the four trunk lines. Can you tell us from memory now what they were?—A. No, I can not; I do not recall them. I remember that in the early history of the business, in the early 70's, the Pennsylvania having the only lines to Philadelphia had a much larger percentage than it did after the New York Central and the Erie perfected its arrangement by which they could reach Philadelphia, and after that date the Pennsylvania's percentage was smaller than in former years; but what this percentage was I have no recollection.

Q. If I give you the amounts can you remember them? Do you not know that originally when the first distribution was made of crude oil, the Pennsylvania Railroad got 47 per cent., the New York and Lake Erie and the New York Central each 21 per cent., and the Baltimore and Ohio 11 per cent.?—A. To New York?

Q. Yes sir?—A. Well, my remembrance is entirely gone as to that. But I think you are right.

Q. Was it not subsequently changed to 45 per cent. for the Pennsylvania, to 22 for the New York and Lake Erie and the New York Central, and the Baltimore and Ohio remained the same at 11?—A. My memory on that point is equally at fault with the previous suggestion or question; but if you assert it I will admit it.

Q. That is for you to say. I am not to decide.—A. I do not remember. The reason is this—as the representative of the Standard Oil interest, in all my interviews with the gentlemen representing the trans-

portation interests I always said the division is none of our business. If you agree among yourselves that one road shall have 90 per cent. that is all there is about it. We have no interest how you divide this business, and don't care how you divide it, if you only maintain rates.

Q. Was not this distribution according to a percentage, or this pooling confined only to crude oil?—A. Oh, no; it extended to and covered the refined. There was a period of time when the New York Central carried hardly any crude, and did carry only refined oil.

Q. Was there a separate percentage for refined different from that of crude, or did this one fixed scale of percentages apply to oil irrespective as to whether it was crude or refined?—A. The refined oil, as I remember it, was on a basis of one and three-tenths of crude. In other words, 130 barrels of refined in making up the aggregate counted 100 barrels of crude. But the aggregate of refined was added to the shipments of crude, as I stated, three-tenths, it might have been a third, and the total shipments were obtained in that way, and from that the percentages were figured.

Q. The percentage was based upon both?—A. Yes, sir.

Q. Then were you not mistaken in saying that 130 barrels of refined answered to 100 of crude? Wasn't it *vice versa*?—A. Yes, sir; I didn't mean to say that. In other words, 130 of crude answered the same as 100 of refined.

Q. Now you have said that other shippers got this 10 per cent. commission. Have you any knowledge of it and can you of your own knowledge say who got it besides those who were connected with you?—A. Yes, sir; I can.

Q. Who?—A. I would like to be excused from saying who.

Q. Now that destroys the force of your testimony. I think we are entitled to that?—A. You asked me if I could say whether any other shipper got it, and I say I can.

Q. Now, I want to know who it was?—A. I have no objection to telling you. Malcolm Lloyd.

Q. Have you any knowledge of any other shipper getting it?—A. No, sir.

Q. Malcolm Lloyd was located at Philadelphia?—A. Yes, sir.

Q. Now, the latter part of this clause six of the memorandum furnished by your friends is, that this agreement was abandoned in 1879, and since the Standard has received no preference. Have you anything to say upon that subject?—A. Nothing particular, except to assert that as a fact.

Q. Now, that abandonment in 1879 was the result of that litigation about which so much testimony has been given here, was it not? The litigation in which Mr. Cassatt was examined as a witness. The litigation commenced by the State of Pennsylvania against the railroad companies and against—A. I don't remember what year it was in, and I don't know whether the one thing was a result of the other or not. I don't now remember why that contract was abandoned.

Q. The abandonment of that contract was brought about by a written agreement, was it not, which all you gentlemen signed and which has been offered in evidence?—A. If you will let me look at that book. I have never looked at it.

Q. I want to get that in your testimony.—A. Yes, sir.

Q. Since then the Standard has received no preference?—A. None whatever.

Q. What do you mean by that?—A. I mean to say that every barrel of crude or refined oil we have shipped over the Pennsylvania Railroad

we have paid as much freight on per barrel or per hundred pounds as any other shipper, and I believe in some cases more.

Q. Immediately after 1879, when this contract had been made by which you bound yourselves to consent to be treated alike with other shippers upon the railroads, you commenced the construction of pipe lines, did you not?—A. The abandonment of the contract, if I may repeat your words, in which we consented to be treated like other shippers.

Q. Just answer the question?—A. I would like to have you and the committee to understand that the commission paid by the Pennsylvania Railroad to us was not a rebate on shipments in any sense of the word, but it was for a service rendered wholly outside of our shipments and as shippers; and on our merchandise business during that period of time from October, 1877, to the time that the contract was abandoned we paid precisely the same rates that anybody else did, according to my best knowledge and belief. The commission of 10 per cent. which followed—I think the rate was \$1.50 or \$1.40, from 14 cents down—was given for the work which I have detailed somewhat at length. But as shippers I object to admitting that we at any time ever got any favors on the Pennsylvania Railroad in any form.

Q. You do not deny the statement made under oath by Mr. Cassatt? Did he not testify truly to the actual rates paid?—A. I have never read his testimony.

Q. He testified that there was a rebate of 22½ cents, or a tariff, to the American Transfer Company on all oil that passed over the Pennsylvania Railroad. That was a fact, was it not?—A. Yes, sir.

Q. That had nothing to do with the 10 per cent.?—A. No, sir; I thought you were speaking of these shipments to the sea-board.

Q. And Mr. Cassatt testified and offered in evidence the correspondence, which showed that his company agreed to the payment of that 22½ cents to the American Transfer Company on every barrel of crude oil passing over their line in consequence of the fact that the writer of the first letter on behalf of the American Transfer Company had asserted that the New York Central and the New York and Lake Erie roads paid the same amount. You know that to be a fact, do you not?—A. May I explain that now.

Q. You are entitled to make any explanation you wish?—A. The American Transfer Company was built originally for, really, the New York Central road. The New York Central had no means of getting south of Titusville with its cars. The American Transfer Company's lines were built really in the interest of the New York Central road. In those days the pipe lines purchased the oil and oftentimes sold it at just what they paid for it, and sometimes less. They got more when they could. The New York Central, as I said, paid the American Transfer Company a price, which I presume was the figures named in Mr. Cassatt's testimony, for collecting oil in the lower country and delivering it to the Dunkirk and Alleghany Valley, which is the New York Central's connection. As that pipe line increased its business the Erie road did the same thing. Later the Pennsylvania Railroad wanted the service of that pipe-line in collecting oil. Mr. O'Day did what I suppose any manager would do. He said to Mr. Cassatt, if you do the same thing for me that the other roads are doing, I have no objection to making the same arrangement with you. The payment made by the Pennsylvania, the Erie, and the New York Central roads constituted the gross income of the American Transfer Company, out of which it paid its expenses of doing its business and its losses, if

it made any, in the purchase and sale of oil. It acted as a factor for those northern roads, and, as I said, was originally built in order that oils might be reached by the New York Central.

Q. But in addition to the sum of 22½ cents, or whatever it may have been, which these trunk lines paid to the American Transfer Company, that company as a transporter of oil through its own pipe got this pipage charge besides?—A. I never so understood it. As I remember the facts in the case, while there was a nominal pipage—there might have been; I do not say there was; I do not remember—

Q. You do not say there was?—A. I do not remember. But while there might have been a nominal pipage, that nominal pipage might have been absorbed in the crude oil. In other words, it threw away its nominal pipage and relied—

Q. I am speaking now solely of the relations of the American Transfer Company to the railroads. The former received 22½ cents on every barrel of oil passing over the Pennsylvania road and the other roads. But the American Transfer Company was a transporter of oil itself, and to the extent it transported oil through its pipes it made charge for that service also?—A. That is a point where I say I want to correct you. While it may have made a nominal charge, about which my memory fails me, I say it threw away that nominal charge by paying to the owner or the producer of the oil the value of the oil at the wells plus what that pipage might have been, and that twenty odd cents paid by the Pennsylvania constituted its gross revenue.

Q. Are you sure of that?—A. I am as certain of it as I am of many other things that have passed out of my recollection.

Q. What was the capital of the American Transfer Company?—A. One hundred thousand dollars.

Q. Was it not, as Mr. Bostwick testified, \$100,000?—A. I just said it was about \$100,000 or \$200,000; but that don't signify anything about the amount of money actually employed.

Q. Didn't the American Transfer Company own simply a small amount of local pipage, 30 or 40 miles?—A. Oh, no; it owned a great deal more than that.

Q. Up to the year 1878, did it?—A. I am not certain about the year. Its business increased gradually.

Q. I am speaking now of the time to which your testimony has been directed.—A. I have never been in the oil regions but once in my life; but as this matter has become ancient history I can only judge, in a way, that this American Transfer Company was a competitor of the Union Pipe Line. It is my recollection that when the Union Pipe Line was purchased by us, in 1877, they had several hundred miles of pipe line—the Union—and I assume, and very properly, that the American Transfer Company was not any behind it in quantity of line owned by it.

Q. Upon that subject I suppose Mr. Bostwick is more familiar than you?—A. It is quite likely Mr. Archbold would know.

Q. Mr. Bostwick was examined by me on that subject. If his statement should differ from yours on that subject would you not suppose that he had more knowledge on the subject than you? Did he not at one time practically own the American Transfer Company?—A. If he stated 30 or 40 miles only, Mr. Gowen, I think I can explain it readily. Its main line from down the river up north might have been 30 or 40 miles, without taking into account its branches out in the country in different ways. I can see how Mr. Bostwick might make that mistake. I never read his testimony. If he said only 30 or 40 miles, that would

have been the natural inference of a man who spoke of the main carrying line from the initial point of shipment by rail.

Q. You among others signed that agreement of 1879 which was negotiated or brought about, among other things, by the influence of Mr. Campbell, who represented the producers at that time, did you not? The agreement which the railroad companies and the gentlemen connected with the Standard Oil Company signed, by which they bound themselves that thereafter there should be no discrimination in the transportation of oils upon the railroads, do you remember that you signed that?—A. No, sir. Will you let me look at the agreement? I do not recall it at all.

Q. It has been offered in evidence in this case?—A. If I could glance at it I could tell in a moment.

Q. You say since that agreement of 1879, the Standard received no preferences. Now, at what time did the Standard Oil Company, or the gentlemen connected with it, commence to lay their first line to tide-water, their first pipe line?—A. I can not tell what year it was in.

Q. Was it not open for business in 1880?—A. I think very likely; yes.

Q. Was it before 1880?—A. As I say, I have no recollection.

Q. Since the opening of your pipe lines to tide-water a large portion of your business goes to the pipe, does it not, of crude oil?—A. For the last three or four years it does.

Q. For the last six or seven years, does it not? This is 1888?—A. Yes; six years, probably; five or six years.

Q. You give the Pennsylvania Railroad now 26 per cent. of the business, and 74 per cent. of it you take by the pipe line; that is the agreement, is it not? That has been testified to by one of you gentlemen here?—A. I presume those figures are correct. I do not recollect them.

Q. Now you charge an initial collecting charge for local pipage of 20 cents a barrel, do you not?—A. Yes, sir.

Q. And you charge upon the main line of pipe 45 cents a barrel to New York and 40 cents to Philadelphia, do you not?—A. Yes, sir; and Baltimore. I want to correct the 20 cents initial charge; that is on a portion of the line only.

Q. That is for local pipage?—A. Yes, sir; you are right; local pipage.

Q. Then the cost of transporting oil to anybody, the charge, rather, for transporting oil over that pipe line is 65 cents to New York and 60 cents to Philadelphia, including the deliveries?—A. From the wells?

Q. From the wells?—A. Yes, sir.

Q. The charge over the Pennsylvania Railroad for the railroad transportation, including your local pipage charge, is just the same?—A. Yes, sir.

Q. Exactly?—A. Yes, sir.

Q. Now you own the pipe line?—A. Yes, sir.

Q. What does it cost you to do business on that pipe line?—A. I am not able to answer the question. I have never looked into it, and do not know anything about it.

Q. Does it cost 10 cents a barrel?—A. I can not answer the question at all.

Q. You certainly know a good deal about that. Have you not testified here that in the Lima coal-fields, where the rate for transporting crude oil by railroad was 18 cents a barrel, you are about laying, or have laid, a pipe line to Chicago, so that the railroad transportation can be

reduced; so that it could be done cheaper?—A. I admit that; then what?

Q. How far is it from the Lima wells to Chicago?—A. About half the distance that it is from the Pennsylvania field, and over a dead level, and one pump throws the oil the entire distance. On the New York lines to the oil regions, and the Baltimore line, oil is thrown about every 25 miles, picked up, and thrown over again.

Q. Surely not?—A. Yes, sir; we have the statement here; about 25 miles. I believe you will find as many pumping stations from the oil region to New York as there are miles divided by 30, and I think as many as divided by 25. If you do not know that, you are mistaken.

Q. Then you have not taken advantage of the topography of the country. When you get to within 150 miles of New York, over an elevation 15 feet above tide, you certainly want no pump to pump that oil down hill?—A. I am not a practical oil man. Perhaps our practical men will know more about it than I do; I simply know that the difference in transportation of oil to the sea-board over the Alleghany Mountains, and the transportation of it from the Ohio fields, known as the Lima district, to Chicago, are two very different things. Another thing I should say is that the line being laid to Chicago is an 8-inch line, and the quantity of oil that is likely to go through it will probably not exceed five or six thousand barrels a day, and that quantity of oil can be transported through the walls of a large pipe with infinitely less friction than 25,000 barrels through a 6-inch pipe, the 8-inch pipe being more than twice as large as the 6-inch.

Q. I will ask you again whether the cost of moving oil from the wells to New York in your pipe exceeds 10 cents a barrel?—A. I can not answer the question, for I do not know. I have never seen any figures bearing upon it at all.

Q. Though I suppose it is very evident that if you owned the pipe and maintained a charge of 65 cents, when it only cost you 10, and when all other people who go by the railroad have to pay the 65 cents, including your local charge, that you have an advantage over everybody else by reason of the ownership over that pipe?—A. You speak of the 20-cent charge, and add it to the 40-cent charge, and treat it as if all the oil that went through the local pipe was subjected to the 65-cent charge. You know that a great deal of the oil don't go through the trunk line pipe, do you not?

Q. I am speaking of the oil that goes by railroad to New York, to be refined in competition with your oil?—A. You refer to the 65 cents as being a source of revenue on the investment, do you not?

Q. No. I am speaking of it as a charge against the business of the man who has to pay it. A rival of yours in New York, who owns no oil and no pipes, and owns no railroad, has to pay 65 cents a barrel to get a barrel of crude oil from the oil wells in Pennsylvania to the refinery in New York.—A. Our refinery has to pay just the same price.

Q. You pay it to a pipe line of which you are the owner?—A. Suppose we owned the railroad? Wouldn't we have a right to make some money for our stockholders out of the railroad?

Q. Certainly.—A. What are we drifting to?

Q. I am not speaking of that; I want to get at the fact.—A. I say they are not our competitors, because whatever may be the earnings of that pipe line, it goes to that pipe-line interest, and we have no monopoly on pipe lines. If it is such a profitable business as seems to be made out here, why don't other people go into the business?

Mr. SMITH. You are tickling yourselves now.

The WITNESS. We have done that with our own money.

Q. You have made a contract with the Pennsylvania Road under which they maintain the same charge upon their railroad that you maintain upon your pipe, do they not?—A. Yes.

Q. And that is 45 cents to New York?—A. Forty-five cents to New York and 40 cents to Philadelphia. The 20 cents has nothing to do with the trunk-line charge.

Q. You get that 20 cents on your local pipe line alone?—A. Yes, sir; but don't we do anything for it?

Q. Yes.—A. A man goes and strikes a well out in the woods in a cherry grove, 8 or 10 miles out. You take the history of that, and you will see that the cost to take care of that well in the cherry grove is more than the revenue.

Q. What I want to get at is this, whether you are not very safe in agreeing now to pay the same rates on the railroad that everybody else pays, when that rate is so high that by carrying it at the same rate upon your pipe line you can make four or five times or six times the amount of its cost?—A. We were always willing to pay the same rate by railroad when the railroads carried the same kind of oil that was produced, as our competitors were; and we never sought to get any discrimination, notwithstanding this newspaper talk and flurry. We did as everybody else did; when it was go-as-you-please, we sought to get the lowest rates we could. It made no difference what somebody else got, we tried to get the lowest rate we could, and sometimes that was higher than somebody else was paying.

Q. Mr. Cassatt testified to the exact rate you paid up to 1879, from which, according to his testimony, you were getting a preferential rate?—A. In what way?

Q. By a commission thrown off and by this rebate?—A. A commission thrown off for services rendered that no other gentleman in this room would have rendered for the price.

Q. I want to get the facts from you, and we will discuss it afterwards.—A. I don't object to stating any fact, only I say it is not a fair treatment of the case to call it a preferential rate. If I give a dollar for a dollar's worth of flour, that is not a preferential rate. I say it is not a fair construction of words to call a commission paid for valuable services rendered preferential rates, and you know it is not.

Q. Oh yes, I do. I don't agree with you. I think it is a preferential rate.

Mr. SMITH. I would like to know what those services are.

Mr. GOWEN. He has explained them to have been——

The WITNESS. I will tell you. It meant running refineries in localities at losses of thousands of dollars every month. We had to produce the oil at that point to give the railroad its oil. It meant running the refineries for weeks and months at periods of time when we did not get back a new dollar for an old one, because the markets were against us. If we had done as others did, to market the refined and make a profit out of it, we would have been in a different condition. Now, I say, comprehending the full import of what is involved in the language, the losses we sustained in order to equalize this business month by month brought losses upon us of hundreds of thousands of dollars. Now, when that is all set to one side, and this commission of 10 per cent. given for a specific service rendered is called a preferential rate, I say it is not a fair way of treating the question.

By Mr. SMITH:

Q. Were you compelled to go to work and produce so much oil, crude or refined, to ship it over the roads?—A. If somebody else had by virtue of other shipments given some one road a larger percentage of the business than it was entitled to, our obligation to the road to make up any deficit or any shortage was that we should give them from our own shipments sufficient to make up the deficit. It was only out of our own shipments that we undertook to do this thing.

Q. Suppose you were in arrearages with the Baltimore and Ohio. Could you not have gone to work that coming month and shipped only so much oil as would equalize the Baltimore and Ohio with what was short the month prior and then ship no more? Were you compelled to ship a certain amount per month?—A. We were never in arrearages with the Baltimore and Ohio.

Q. Or any other road?—A. The roads got in arrearages sometimes by unexpected shipments on the part of other shippers. Say that business was equal to 50 per cent. done by outside manufacturers and 50 per cent. by us. We had no means of knowing, say in August, what those men were going to ship. The market might be such that they would ship very much more than in the month of July. The most of them were compelled by virtue of their location to ship it over the Pennsylvania road. We were going along making a division of the oil as would give to the Pennsylvania road what we supposed would equalize it. We didn't know what the facts were until the end of that month. When that time came it was found that through this spurting up the Pennsylvania road had gotten 200 or 300 barrels more than its percentage. We were then compelled during the following month to manufacture and ship by the Erie, the New York Central, or both of them, a much larger percentage than we wanted to ship that month, because it was incumbent upon us to do it.

Q. Were you obliged to do that when other refineries were in the same business?—A. Yes, sir.

Q. It seems a very queer business transaction that business men should go to work to do things that others were doing?—A. It may seem queer to you, but it was a fact. Now here we will say were one hundred refineries which shipped over the same line of road to the railroad. They agree that they will take out of those one hundred refineries, one 9,000, another 11,000, and another 26,000, and so on. We undertake, out of our own shipments, to make that division of the business, and if the business ran below in some one month it was our obligation in the following month as near as possible to correct that, and give to the road that had failed to receive the previous month its amount an excess during the following month which would make up for the next month an average percentage.

Q. That was all done to make an equalization of rates in the different lines?—A. Now let me explain why we were interested in having those rates maintained. We all know that when a railroad company does not get what it wants in any traffic they immediately get to cutting rates to increase their shipments. We did not want the rates cut. We were interested in uniform rates to every road and to every shipper, and when we knew what we were to pay as manufacturers we felt satisfied that we could continue our business with a great measure of certainty as to loss and profit.

By Mr. GOWEN:

Q. I think I asked you when you were on the stand before about this subject of rates. I will ask you on this point whether you remember

the lowest rate ever charged on crude oil by any of the trunk lines to tide-water at the time there was a struggle between your company and the association and the Tide-water Pipe Line. How low did these rates fall?—A. There was not a struggle between our company and the Tide-water Pipe Line at all. The struggle was wholly between the railroads.

Q. I am only speaking of that as to the time.—A. I hope you will allow me, in justice to my company, to state what the facts were.

Q. You can state what you please after you answer my question.—A. I can not remember how low they were.

Q. How low do you remember? Didn't it get to 15 cents at one time?—A. Possibly. I should have said 20 or 25 cents. Possibly it was as low as that.

Q. Now you can make your statement.—A. I want to say this: The Tide-water Pipe Line was the first line built to the sea-board, and it had a connection with the Reading Railroad, by which the railroad and the line jointly undertook to do business. We had several discussions pipe of the future with the representatives of the Tide-water Pipe Line, and would have had no difficulty whatever in making satisfactory arrangements with them, which would have removed all unnecessary competition, but the New York Central, the Erie road, and the Pennsylvania Central said to us: "Gentlemen, we don't want you to make any alliance of any formal nature with the Tide-water Pipe Line." They added: "We will protect you in the matter of rates as against any competition furnished by the Reading and Tide-water Pipe Line." I replied to that: "I have never seen a contest begun of this kind but what there was an end to it. Now, we can make a satisfactory arrangement with the Tide-water Pipe Line and avoid all this contest. It is not necessary for you to throw away any money. We are not seekers after low rates. We have done our business by you, and are willing to continue, but only upon one single, solitary condition—we would prefer not to have this contest; it is better that the Tide-water and Reading Railroad should be recognized." The reply was, "We never will recognize them as carriers of oil."

Q. That was the reply of these three trunk lines?—A. Yes, sir; I said, "Gentlemen, the other thing is of a great deal more importance than the rates. The rates are short-lived affairs." Now, I will make this explanation in justice to ourselves, in reply to the remark you made of our contest with the Tide-water Pipe Line. We had no contest. It was simply a contest of the transportation lines, and we, like fools, allowed ourselves, instead of making arrangements with the Tide-water Line, to say to the trunk lines, "Very well, then, we will stick to you and leave you to fight out this battle." They fought it for a year or two, and you know how it ended.

Q. Three or four years, was it not?—A. I thought it was two years.

Q. Then I understand you to say that all that struggle, and the low rate that the trunk line charged at the time the competition with the Tide-water and Reading came into existence, was brought about by the trunk lines themselves?—A. It was a struggle on the part of the trunk lines to hold the entire oil business, and they avowed it to me, not once, but many times, that it was their firm intention never to recognize the Tide-water to the sea-board.

Q. And during that struggle they actually carried it at 15 cents a barrel?—A. I should have said 20 or 25 cents. I knew it was a ridiculously low rate.

Q. That was for a barrel over a distance of about 500 miles?—A. I don't know.

Q. Seven barrels to a ton would be \$1.05 for transporting it 500 miles, which would be a little over 2 mills per ton a mile, would it not?—A. I don't know.

Q. I would like to get that on the minutes.—A. You can get at that.

Q. I want you to do it; I am not a witness.—A. I can not figure how much per ton per mile it would come to.

Q. Two mills a ton a mile for 500 miles would be \$1 a ton?—A. I am not able to demonstrate that proposition.

Q. You have some arithmetical knowledge?—A. I can not answer that question.

Q. Now, the seventh article upon this memorandum is Mr. Emery's list of squeezed-out refineries. Do you desire to say anything upon that subject?—A. I don't know anything about it.

Q. The eighth item is, from 1871 to 1875 refineries made no money and many failed, giving the reasons. Do you desire to say anything upon that subject?—A. I can only say in a general way that that was a period of time when the competition of the business was very severe, when the methods were very imperfect, when the business was largely overdone, and when I believe almost all our competitors were speculating a confounded sight more than manufacturers, and the natural result followed, which was a disaster to pretty much everybody.

Q. Now, under the head of reasons under the eighth head is, first, freights were excessive; it cost \$1.80 to get a barrel of oil to the seaboard. Now it costs 45 cents. Have you anything to say upon that subject?—A. I don't know the year specified in that paper. I know the rates specified at one time were \$1.50, and I think higher than that. I know the rates at one time to Cleveland were \$1.50 on crude oil, but only for a few weeks.

Q. The second reason is as to grade and decline in prices, etc. In 1872, \$3.96; in 1873, \$1.73; in 1874, \$1.18. Refined was, in 1871, 24; in 1872, 23; in 1873, 20; in 1874, 12 $\frac{2}{3}$ ¢. Do you desire to say anything upon that subject?—A. No; I do not think I do.

Mr. DODD. Let Mr. Flagler refer to the table already in evidence which shows those facts.

Mr. GOWEN. It is already in evidence.

The WITNESS. I know simply this: That commencing with my connection with the oil business in 1867, the quality of all refined oils has been greatly improved, and the price to the consumer steadily decreased.

By Mr. SMITH. What caused the improvement?—A. The enterprise and the experience that follow any well-conducted business for a long period of years.

Q. Was there not something in chemical inventions in the treatment of oil?—A. I suppose there were a great many improvements in mechanical appliances, and in distilling and refining oil. If a man ran a wool mill for twenty-five years he would, at the end of that twenty-five years, know a great deal more about it than when he commenced.

Q. I want to get some knowledge on the point of refining oil, is the reason I ask you this question. Has not the chemists' work in the refining of oil and the treatment of the residuum of oil, etc., had a great deal to do with producing this effect—of cheapening the manufacture and cheapening oil?—A. I do not think that the results are to be attributed to the knowledge of the chemist as much as they are to the knowledge and experience of the practical men who are doing this thing. My knowledge in a general way is, that our laboratories, as a rule, are behind our practical men.

Q. Is it not a chemical science to take the crude material and refine it?—**A.** Perhaps I do not understand what is involved in the expression "chemical results."

Q. I mean chemically refining, or the treatment of any fluid or other matter. Even ores cover a large field, and certainly the treatment of oil from its crude to its refined state is a chemical process. You may call it a refining process, but you have to treat it some way to produce that effect. The running of high wines through shavings with a current of air passing up through it turns it into vinegar. That is a chemical process.—**A.** I should call that a mechanical process, but I am not much of a scholar.

Q. Neither am I, but I know that much. I would like to ask one question which the testimony brought out, which Mr. Flagler spoke about early in his statement. He said that the Pennsylvania Railroad divested itself of some manufacturing business. I should like to know what manufacturing business the railroad company was engaged in.

Mr. GOWEN. It was the Empire Transportation Company.

Mr. SMITH. Was the railroad company interested in manufacturing, or in refining oils or producing oils?

Mr. GOWEN. The Empire Transportation Company, which was the organization that owned the cars running on the Pennsylvania Railroad, was the company engaged in refining oil. They had several refineries.

The Witness. The Empire Transportation Company bore to the Pennsylvania Railroad the same relation that an express company would. If you and I have anything to express we need not apply to the railroad officers. We have to go the express company. Therefore, every shipper of oil over the Pennsylvania road had to settle and get the rates from the Empire Transportation Company, and that company was, as I have said, not only transporters, as if they had owned the road themselves, but they were also owners of a refinery in New York and one in Philadelphia, and it was that fact that created jealousy on our part and on the part of the other railroads.

Q. The reason I asked this question was to discover if that railroad company was not in the manufacturing business; it don't make any difference what, so long as it interfered with the business that you were engaged in.—**A.** It was, with this explanation, that the Empire Transportation Company was the only medium through which a barrel of oil could be shipped over the Pennsylvania Railroad.

Q. And that was closely connected with the Pennsylvania road.—**A.** I say it was the only medium. It bore the same relation to the oil business and the railroad that an express business does to a railroad with which it has a contract, and the Empire Transportation Company was a refiner of oil. I remember once the position taken by Mr. Vanderbilt about that in a conference with some of the representatives of the Pennsylvania road. He said that if they were going into the manufacture of oil they might as well go into the manufacture of flour, and hides, and everything, and so own the freight that was transported over the road. He objected to the Pennsylvania Railroad, through the medium of the Empire Transportation Company, being interested in the manufacture of oil.

Q. Were any of the officers of the Empire Transportation Company also officers of the railroad company?—**A.** I am unable to answer the question, but I presume not.

By Mr. BRECKINRIDGE :

Q. You allude to the competition of our manufacturers of coal oil in the markets of Europe and Asia and against the competition of Russian markets. I will be glad if you will state to the committee something about the nature of that competition, the kind of oil they produce, the degree and perfection to which it may be advanced in the business; in other words, the strength of the competition, what we have to fear from that quarter, and so on.—A. They have, in the first place, a crude oil over there which would seem almost inexhaustible in quantity, and the influence brought to bear by quite a celebrated firm of Swedes, the Nobel Bros., who have gone into the business very extensively and own very large refineries, pipe lines, tank steamers and cars on the Russian railroads, together with the fact that the Rothschilds have, within the past two years, become possessed of a very large interest in the Russian fields, have developed on their part an ability to manufacture an excellent quality of oil. In respect of quality it is the peer of the best we can make. American oil was driven out of Russia—the consumption of Russia, some years ago—five, six, or seven years ago. They have already practically taken away from us a large portion of the Mediterranean trade, or a great deal of it, that is, near to Constantinople. They have sent into England during the years 1887 and 1888 a very considerable quantity of refined oil in competition with our American oil. They are sending this oil now into the East, China and Japan, and are becoming very formidable competitors with America in supplying the world's wants.

Q. Where are their best wells located?—A. At Baku.

Q. I thought it was in the southeastern part of Russia?—A. It is. I have never looked on the map.

Mr. GOWEN. It is south of the Caucasian Range.

Q. Their principal wells are in the vicinity of Baku?—A. Yes, sir.

Q. You spoke of their having pipe-lines?—A. It is over here [indicating on map].

Q. Are Baku and the Black Sea connected by pipe lines?—A. They may be, but I think the principal pipe lines of Baku are on the shore.

Q. Baku is the seat of their refining industry?—A. Yes, sir; it is on the Black Sea, and the sea-port.

Q. Do they refine much oil at Batoum?—A. I do not think any oil is refined at Batoum.

Q. They refine oil principally at Baku, and ship it by rail for the western European markets at Batoum, and it is then distributed through the Mediterranean?—A. Yes, sir.

Q. How do they put up their oil for consumption; in barrels or packages?—A. I think it is carried largely over the railroad in tank cars and shipped, quite a considerable portion of it, by tank steamers, although there were shipments that were wholly by barrels in the beginning. Now they are running it by tank cars over the Caucasus, and I guess almost entirely by tank steamers to ports in Europe. Liverpool receives a good deal of it, and there is a sea-port town by the name of Fiume; I think it is in Hungary.

Q. Have we any formidable competitions either present or prospective except this in Russia?—A. No, sir; petroleum is found all over the world. Russia is the most formidable competitor.

Q. Which is the one that is cited.—A. Yes, sir.

Q. In what condition or form do you ship to the European markets?—A. Very largely in barrels, but the business of shipping in bulk is increasing now all the while. Some of these steamers that have been run-

ning in this Russian trade are now coming to America. Occasionally we get one here.

Q. You mean tank steamers?—A. Yes, sir.

Q. Can a tank steamer handle anything except coal oil?—A. They may be able to bring back ores, or something of that kind if they have them to bring; but I imagine they don't do that.

Q. They are so constructed that they can use the same space for other things than oil?—A. I do not think they could get them into the tanks. Tank steamers don't carry anything but oil. I think the most they could have in these tanks would be man-hole entrances.

Q. I have heard it stated that tin cans were very largely used in the coal-oil trade in supplying the European markets.—A. They are.

Q. Do you think that will continue to be the case?—A. In certain sections of the country, according to the climate. Oil that goes across the equator I think must necessarily be taken in tin. They can not be transported in wood at all. I should think the carrying of oil by water to the East Indies in bulk and then put into tin cans there would be accompanied with a great deal of risk. I know the Russians are packing in tin cans to these countries, and we and everybody who send to those countries pack in tins. They can not be transported in wood.

Q. You get a drawback on the tin, do you not?—A. We get a drawback of 90 per cent., provided everything we use is imported, solder and everything. To do that we have to use Canadian lumber for the boxes, imported nails to nail them with, and imported solder and imported tin. If we do that we get 90 per cent. of the duty paid, but it is all upon the foreign importations, and everything that enters into the tin and case must be of foreign material.

By the CHAIRMAN:

Q. I understand you do not get a rebate when the can is of foreign tin and the case is domestic wood?—A. Or if the nail is an American nail, we do not.

Q. The whole package has to be foreign?—A. Everything has to be foreign to get the duty paid.

Mr. ARCHBOLD. That has been changed.

The WITNESS. I am speaking of the law as it is. I am speaking now of the whole thing, the can and package. Mr. Rogers told me a few days ago that they had to use a foreign nail in nailing the cases. The can is necessarily accompanied with the wooden case, but you get a drawback then on the can alone.

By Mr. BRECKINRIDGE:

Q. What is the freight on bulk oil from New York to Liverpool, say, per gallon.

Mr. ARCHBOLD. About 2s. 6d. for a barrel of 50 gallons; 62 cents a barrel of 50 gallons.

Mr. BRECKINRIDGE. Do you know what the freight is from Batoum to Liverpool.

Mr. ARCHBOLD. Something less.

Mr. BRECKINRIDGE. From Batoum?

Mr. ARCHBOLD. From Batoum.

Mr. BRECKINRIDGE. Do you know how much less?

Mr. ARCHBOLD. I think about 2s. now from Batoum.

Mr. SMITH. Is that by water.

Mr. ARCHBOLD. Yes.

Mr. BRECKINRIDGE. You don't know what the rate is from Baku, do you?

Mr. ARCHBOLD. By railroad from Baku?

Mr. BRECKINRIDGE. Yes, sir.

Mr. ARCHBOLD. The rate now, I think, is 65 or 70 cents a barrel.

Mr. BRECKINRIDGE. Mr. Flagler, do you consider that reliable evidence?

Mr. FLAGLER. Yes, sir.

By Mr. GOWEN:

Q. You don't mean the rate from Baku to Liverpool?—A. No, sir; from Batoun. The distance is about 600 miles from the Caspian Sea.

By Mr. BRECKINRIDGE:

Q. What are the comparative wages paid at Baku and this country?—A. I have no knowledge on that subject at all. I should imagine, however, about the same, from the fact—

Q. Do you know the rates of wages paid in similar lines of work at Baku and in this country?—A. I was going to say, it would not vary very much, because these men engaged in those Russian refineries have necessarily been imported, many of them, from America, and have gone to the various points on the continent.

Q. You allude now to the skilled labor?—A. Yes, sir. Where you are using, for instance, pipe lines, it is all skilled labor. It requires an engineer to run those pumps. In a refinery it is pretty much skilled labor; all the goods are handled in bulk, so that especially where goods are shipped in bulk there is little of that coarse labor. Of course, such men who fire their boilers are not skilled, but the introduction of that change from barrel to bulk shipments would necessarily do away with quite a percentage of what we would call unskilled labor.

Q. So, if they employed even unskilled labor they would get it more cheaply, but it would not be as efficient as the skilled labor using the mechanical processes?—A. For the work that unskilled labor would be adapted to, I presume that it would be just as well as the unskilled labor. In other words, that a competent, intelligent man, who was an engineer, probably would not do more out in the hot, broiling sun than one of these fellows who gets but 3 or 4 copeks a day.

Q. The impression I gather from what you say is, that the refining of coal oil and the handling of coal oil has advanced to a point that in large measure dispenses with unskilled labor, it being done now principally by machinery.—A. I could answer that by saying that the developments in the manufacture of petroleum are such that it has increased the percentage of skilled labor.

Q. That is the point.—A. To that extent it has decreased the percentage of unskilled labor.

Q. And you do not consider that it would be profitable for the European competitor to adhere to the old methods of refining petroleum such as might be used with unskilled labor?—A. I have no doubt but what their methods are quite up to, or nearly up to, ours.

Q. That is not the question. You have just stated that they have adopted our methods; but there formerly existed cruder methods, did there not?—A. I can not say about that. I think so far as the business of distilling and refining, while the methods have improved somewhat, it is simply an improvement upon the same methods.

Q. I refer more particularly to the method of handling?—A. The difference in change from the barrel shipment to the bulk shipment must necessarily have done away with a great deal of unskilled labor. Now will you kindly repeat your question.

Q. The point that I was coming to in another form is just this, that the dispensing with that cheap and unskilled labor and the handling of the product in the present way with the skilled and expensive labor is the cheaper way of handling the product, is it not?—**A.** I have no doubt it is.

Q. You see no reason why it should not be cheaper, do you?—**A.** No; it is simply the adoption of mechanical appliances which take the place of the old unskilled labor.

Q. It is very frequently denied, which is the reason I ask the question in order to get a business man's impression about it. You would be perhaps surprised to hear it denied, not by business men, but by some people.

Mr. CHOATE. Have you stated anything about the amount of Russian oil.

Mr. BROCKINRIDGE. I did not ask him that question. I believe Mr. Flagler covered that point, however, by stating it was very extensive.

The WITNESS. Yes, sir; amounting to, I should say, more than a million of barrels in 1887, perhaps nearly two millions.

Q. Is the Russian field considered a rich field?—**A.** It has a rich yield; enormous. One of the wells produces 35,000 or 40,000 barrels a day, just one well.

Q. You do not expect to see Russian oil run out; that is the idea?—**A.** No; I do not think it will.

By **Mr. HOPKINS:**

Q. When you ship oil from New York you are obliged to ship your oil by tramp steamer as you call it; you can not ship it by the regular lines?—**A.** It goes by tramp steamers. There is no oil shipped by regular passenger lines.

Q. Have you any objection to stating whether you gentlemen of the so-called Standard Oil Trust have placed a great amount of money in the building of tank-cars and facilities for handling your oil, by which you have cheapened your price to the public?—**A.** We have spent a great amount of money.

Q. You keep a large number of chemists in your employ, do you not?—**A.** Yes, sir.

Q. And you have reduced the price of oil by the amount of money you have placed into the building of tank cars and your facilities for transportation, and your facilities for handling the oil, and by your laboratories, etc. Do you think by those means you have cheapened the price of oil to the consumers?—**A.** Yes, sir; a good deal.

Q. Have you a table with you showing the prices to which it has been reduced within the last ten years?

Mr. GOWEN. That has been introduced in evidence.

The WITNESS. In the matter of tank cars, Mr. Hopkins, there are in use in the United States 6,132, and of that number we own 3,833.

Q. What is the average cost of these cars?—**A.** These latter years I should say \$700 a car was a fair price. We paid last winter for some we bought a little more than that; but \$700 would be a fair price. There are 6,132 tank cars known to the manager of our line. Of that number 3,833 are owned by us, leaving 2,299 owned by the various outside refineries.

Q. Have you any objection to stating—I do not wish to pry into your business—what amount of money you gentlemen expended in your terminal facilities by which you reduced the price of oil?—**A.** I have never thought of it myself; millions of dollars—a good many millions.

Q. I mean by your storage tanks, etc., by which you are enabled to handle this oil in large quantities?—A. A good many millions of dollars.

Q. What was the cause of the trouble in 1875 in which so many of the refineries failed?—A. I think the great number of failures occurred two or three years earlier than that, along about 1872 and 1873, prior to 1875. It was in my judgment due to the fact that some of us went into the business with insufficient capital, without experience, and some of us paid more attention to speculating on crude oil or the price of refined than we did to manufacturing, and some of us had too much competition; and where all those elements were at work there must necessarily be violent fluctuations in prices, and the man who was caught on the wrong side of the market lost. I confess I do not know just what was the cause. I had all I could do to attend to all of my business.

Q. I suppose you gentlemen formed this so-called trust for the purpose of protecting yourselves in order to make the business profitable?—A. Yes, sir.

The CHAIRMAN. Mr. Rockefeller is not here.

Mr. CHOATE. Mr. Archbold is here in his place.

The CHAIRMAN. I want to abbreviate this examination.

Mr. DODD. I do not care to have him go over the last subject, but Mr. Flagler could not answer in relation to the dismantled refineries, and I would like Mr. Archbold to give the dates.

JOHN D. ARCHBOLD—Recalled.

By Mr. GOWEN:

Q. Mr. Archbold, your friends desire you to give the dates at which the various refineries on this list you have in your hands, and which has been offered in evidence, went out of business.

NOTE.—At the beginning of Mr. Archbold's examination he was shown a copy of the list introduced in evidence in the testimony of Mr. Emery, a witness examined in this investigation.

A. My recollection is, that the works named here as having gone out of business were of a very small and primitive character, mostly built in the very early histories of the oil business, and found themselves unable to compete as the methods of the business were improved upon, and as the character of the construction for the doing of the business was improved upon, and that they retired from the business at a period from 1867 to 1875.

By the CHAIRMAN:

Q. Is that as specific as you can give these dates?—A. It is. Many of them appearing there antedate my connection with the business, which began in 1867.

Q. In regard to the dates, can you tell us when the competition from the Russian oil fields was first encountered by your combination here?—

A. We perhaps felt the Russian competition outside of the Russian territory in a marked degree, say five or six years ago, for the first time. Prior to that they had, however, supplanted us in their own territory in Russia.

Q. But you met it first in the general European market, beginning five or six years ago?—A. Yes, sir; and it has increased steadily since that time.

Q. Can you state how much it was the first year; how much the

product of the Russian oil wells was that came into competition in the general European markets, say, five or six years ago outside of Russia?—A. I should think it did not aggregate over 100,000 barrels of oil.

Q. How much last year?—A. About 1,500,000 barrels of refined oil. It is the output outside of the Russian oil. We are excluded from Russia not only by their own product, but by a tariff.

By Mr. GOWEN:

Q. By a local law?—A. Yes, sir.

By the CHAIRMAN:

Q. There is a tariff law or local law which prevents your competing in the territory of the Russian Empire with their own products?—A. Yes, sir; about 7 cents a gallon.

(Mr. Choate handed to the chairman a question in writing which he desired to be asked of the witness.)

The CHAIRMAN. Mr. Choate, it was the judgment of the committee in examining the formal letter sent here that inquiries of the character suggested by the one you have now submitted should not be made, and from that conclusion, of course, there can be no deviation at this time.

Mr. CHOATE. Will the committee put it on record, that we asked to have that question put?

The CHAIRMAN. I will have it put on the record, and also that the committee decided not to make the inquiry.

The following is the question requested by Mr. Choate to be put to the witness, and, acting under the instructions and conclusions reached by the committee, the chairman declined to put it:

Q. Mr. Archbold, will you explain in your own way how the operations of the combination that resulted in the Standard Oil Trust have affected the production of oil, the price of refined oil, and the extension of the market for oil?

By the CHAIRMAN:

Q. Do you know anything of the amount of the raw or crude oil that is produced in Russia, or the limit of that quantity?—A. There has been no limit to it; thus far it has been unlimited, and that from a very small area of territory. The consular reports are very full on the subject, and have special reference to the development of the Russian industry.

Q. What is the character of the oil as compared with the oil produced in America?—A. The crude oil is very much heavier, and has much more earthy matter.

Q. That is, it is like the oil used in this country for other than illuminating purposes?—A. It has not the peculiar feature that the Lima field has.

Q. Is it more like the heavy oil of the Pennsylvania region and Virginia region?—A. Yes, sir; it yields a product of 30 per cent. of very acceptable illuminating oil. A recent consular letter estimates the output from Russia this year as being probably two and a half millions of barrels.

By Mr. SMITH:

Q. It is a better quality than the Lima oil fields?—A. Yes, sir; it yields a better refined oil than has yet been produced from the Lima fields—Lima crude.

By the CHAIRMAN:

Q. How is the oil from the Russian field taken to the general European markets?—A. It is refined at the point of production, and there trans-

ported over the Caucasus Railroad to Batoum, from which it is exported by way of the Black Sea. There is some also sent out in the other direction, by the Volga, distributed in the north.

Q. And the rail transportation of oil in the European markets is from the sea-ports inland, mainly?—A. Yes, sir.

Q. In that respect you have the same facilities?—A. Yes, sir. The Russian industry has recently centralized largely in very strong hands, with increased strength in the markets.

Mr. SMITH. Are there not some Americans engaged in it?

Mr. ARCHBOLD. No, sir; the Rothschilds have taken hold of it and are investing largely in it.

By Mr. GOWEN:

Q. The Russian oil field has been known very much longer than the American oil fields?—A. I think so.

Q. Hundreds of years, thousands. State whether you know of any negotiations on the part of your Standard Oil Trust—any of the gentlemen associated with it—for the acquisition of the Russian fields or any of them?—A. No, sir; we have never had any serious negotiations.

Q. "Serious." Have you had any?—A. No, sir; we have never had any.

Q. Do you say not?—A. I say not.

Mr. CHOATE. We have witnesses here to-day on the special point of Mr. Emery's transactions.

TESTIMONY OF W. J. ALEXANDER.

W. J. ALEXANDER, sworn and examined.

By Mr. GOWEN:

Q. (Exhibiting to witness a statement in writing.) You make that statement as your testimony?—A. Yes, sir.

Q. It is correct, is it?—A. Yes, sir.

Mr. GOWEN. I have no objection to having it introduced in evidence.

The following is the statement:

I am the general superintendent United Pipe Lines Division, National Transit Company, and have charge of oil from time it leaves wells until it is received at the refineries. The quality of oil produced in different portions of the oil region varies in quality and in value. The ordinary oil of commerce represented by pipe-line certificates is oil produced principally in the Bradford district, including the Allegheny oil district of New York. This is called general stock oil. There is about 20,000,000 barrels of it in stock. This stock is the accumulation of ten years. A better class of oil is produced in other districts. It is kept separate from general stock oil, and commands a higher price. It is known as premium oil, and is not delivered through the main trunk line, and never has been, with a single exception hereinafter mentioned. The lines deliver about 34,000 barrels of general stock oil per day, and are now receiving into the general stock from the wells about 11,000 barrels per day. The fresh oil is not kept separate, but goes into the general stock. It would be impossible to deliver to any producer the same oil he puts into the line or oil of exactly the same quality.

The merchantable oil of commerce is the mixture of all oils received, more or less affected by the time it is held in stock and free from sediment and B. This sediment and B. accumulates at the bottom of the tanks. A swing-pipe is kept in the tanks arranged as to prevent sediment and B. from passing from the tank. Records are kept of the inches of sediment and the location of the swing-pipe, and tests are made every hour of oil passing through the pipes for delivery. In this way it is impossible for unmerchantable oil to pass through the line. At delivery points for the railroad the oil is received into receiving tanks. There are three of these tanks at Milton. Some unmerchantable oil accumulates from standing in the bottom of these tanks, but an im-

specimen is made once in every month, and a record is kept of the inches of sediment and the location of the swing-pipe. No oil passed into the line to Milton except merchantable oil, and all oil received at Milton was of the same quality as that which passed through to other refineries.

Q. Mr. Dodd desires you to give testimony on the subject of the methods by which oil is transported through the lines for the purpose of showing, as he says, the impossibility of giving different qualities of oil to the refineries. State anything on that subject you desire to.—

A. The producer puts up wooden tanks. (To Mr. Gowen.) Tell me first what you want.

Q. Just describe the operation of delivering oil.

The **CHAIRMAN.** Just state the method of doing business in this pipe.

Mr. CHOATE. Bearing on the question whether it is practicable to deliver different kinds of oil to consumers.

The **WITNESS.** We connect the tanks at the wells, which are generally of wood, and from that the oil goes through a system of pipes into our tanks to stations in the interior, and from that we pump them into tanks at terminal points, or initial stations of the trunk line. The oil that goes through the pipe is mixed generally.

By the **CHAIRMAN:**

Q. Do you mean generally or usually, or is it all mixed together?—**A.** It is usually mixed.

Q. Then there are times when you keep the product of one well separate from another well.—**A.** No; we keep certain kinds of oil separate.

Q. Explain how that is done.—**A.** We have what is known as the Bradford field, the upper district, Bradford oil, and Alleghany oil, the latter of which is produced in New York State. Those two oils we keep entirely separate. We also receive and have a line for the premium oil, which is produced in the lower country or middle field.

By **Mr. GOWEN:**

Q. This premium oil is a better oil than the Alleghany or Bradford oil?—**A.** Yes, sir.

Q. It commands a higher price?—**A.** Yes, sir.

Q. Not put into the same tanks?—**A.** No, sir.

Q. Goes through the same line of pipe to?—**A.** We have put some of it through one of our trunk lines.

Q. When you put the premium oil into the trunk line that premium oil moves on in its regular position and can be delivered as good oil at the terminus of the line.—**A.** Yes, sir; after the oil previously in the pipe has been pushed forward.

Q. Explain when that was done, and how it was done.—**A.** The only time we put through the premium oil separate through our pipe, the sea-board line was commenced July 11, 1887, and ended December 31, 1887, but before receiving this oil we had prepared at our initial stations at Colgrove a series of tanks. That is, we had to clean out the Bradford, or what is known as the general stock oil. We then commenced pumping this oil east, and displaced the oil in the pipe and the oil in tanks along the trunk lines until it reached its destination at Philadelphia and Baltimore, and I might say Milton. By doing this we lost—or I might say next, that of our general stock oil—fully 10,000 barrels when we first pumped the premium oil into the line, and upon cleaning up premium oil on the last of December we lost about the same amount, an aggregate of about 20,000 barrels of the premium oil we pumped during the time above specified. It mixed with the Bradford oil. That is, it lost its identity.

Q. How many pumping stations are there between Colgrove and Milton?—A. Four.

Q. How many tanks at each pumping station?—A. Two tanks.

Q. What do they hold, 30,000 barrels apiece?—A. About 35,000.

Q. What is the distance from Colgrove to Milton along the line of the pipe?—A. I think about 85 miles.

Q. Isn't it more than that?—A. It would be about 107 miles. I only counted three stations, instead of four.

Q. How far is it from Milton to New York along your pipe—your New York branch—how far is it?—A. The line from Milton don't run to New York.

Q. Well, to Philadelphia; how far is it from Milton along the line of the pipe?—A. About 160 miles.

Q. How many pumping stations in that?—A. There are three pumping stations.

Q. How many storage tanks are there at Milton?—A. Three.

Q. Thirty-five thousand barrels apiece?—A. Yes, sir.

Q. After a tank has been in use for some time in the oil region it accumulates in the bottom of it a large amount of residuum, does it not?—A. A certain amount of what we call sediment.

Q. That sometimes gets to be 4 or 5 feet deep, does it not?—A. No, sir.

Q. How deep?—A. Probably not to exceed 3 or 4 inches. That is of the worthless oil, understand. It settles out in the bottom.

Q. I don't mean the absolutely worthless. That which is 3 or 4 feet at the bottom is less valuable than the other?—A. Yes, sir.

Q. Have you an arrangement when you pump the oil out of the tank by which the pipe through which you pump does not reach down into the bottom of that?—A. Yes, sir.

Q. So as only to take out the good oil?—A. Yes, sir.

Q. After a time you have to get rid of the accumulation of that bad oil in the tank. What do you do with it?—A. We put it in tanks, especially that which is 4 or 5 feet. We pump out the good oil and clean out these other tanks whenever necessary.

Q. Those are tanks on a lower level; you let it run into them?—A. Pump it in.

Q. Then what do you do with it?—A. Let it stand.

Q. Do you put some of it into and mix it with the better oil and get it off to market eventually?—A. We let it stand, and the temperature during the warm weather will settle it. It is really the good oil that settles.

Q. After that has settled you draw off the upper part of that and send it on in the pipe?—A. Where it is heated by the natural temperature.

Q. At Milton, these tanks that received the oil accumulate a deposit also?—A. Yes, sir.

Q. How many years has that pumping station at Milton been in operation?—A. My recollection is about seven years. I think about seven years.

Q. And is that accumulation of residuum or Bs. in the bottom of the tank at Milton treated in the same way as the other?—A. No, sir.

Q. What do you do with that?—A. We never disturb the bottom of the tank.

Q. You never take it out in Milton?—A. No, sir.

Q. That has never been taken out in seven years? There must be a great deal, then, in the Milton tanks?—A. About 5,000 barrels. Allow me to say of that 5,000 barrels there is 85 per cent. of good oil.

Q. If it could be treated properly under proper temperature?—A. Yes, sir.

Q. If it was taken as it is now would it be commercially good?—A. No, sir.

Q. If one kind of oil is put into the pipe and run off, and a few hours afterwards another kind of oil is put into the pipe, each class of oil retains its relative position towards the other and moves without mixing?—A. Not in so short a space of time.

Q. Suppose you were running out of one tank for several hours one kind of oil, and immediately you run another kind of oil for several hours, those two different kinds of oil would maintain their relative position towards each other in the tank no matter in what position they were.

Mr. CROUSE. You mean in the pipe?

Mr. GOWEN. Yes, sir; I mean in the pipe.

The WITNESS. Running the oil as you mention the oil would mix.

Q. It would not mix in the pipe?—A. We could not keep it separate, running a few hours of one kind and a few hours of another kind.

Q. If you ran for a few hours you would get a great many thousand gallons in the pipe?—A. We could not distinguish it at the point receiving the oil, the small amount.

Q. Perhaps in not so small amounts, but the oil that was behind in the process of moving up would not mix up with the oil in front?—A. It would to a large extent.

Q. Why?—A. As I said before, during the time in pumping this premium oil and its displacement by the stock oil we lost the identity of about 20,000 barrels of premium oil. That is due to mixture in the pipe and in the tank.

Q. In both?—A. Yes, sir.

TESTIMONY OF W. H. JONES.

W. H. JONES, sworn and examined.

By Mr. GOWEN:

Q. (Showing witness a paper.) Have you looked at that, Mr. Jones?—A. Yes, sir.

By the CHAIRMAN:

Q. Is it correct?—A. Yes, sir.

Was in the employ of the National Transit Company at Milton during all the time that oil was shipped to Emery from May 18, 1885, to November 7, 1887. Attended to the delivery of the oil. All oil received there was merchantable crude petroleum of good quality, the same as that which passed through the line to other refineries, and was received in three tanks numbered 1649, 1650, and 1794. Inspections of the tanks were made every month and reports made to the New York office. Record was kept of every delivery. There was no difference in the quality of the oil in these different tanks. The oil was being constantly shipped to different refineries. During the period referred to the sediment referred to in No. 1650 varied from 33 to 45 inches. The swing-pipe was located 72 inches from the bottom and was never changed. No. 1649, sediment from 26½ to 48 inches. Swing-pipe 120. No. 1794, sediment 12 inches. Swing-pipe 48.

By Mr. GOWEN:

Q. What is that paper [showing witness another paper]?—A. A statement showing the dates, number of cars, amount of each car, the amount of each shipment in the tank it was loaded from, and the amount of merchantable oil in the bottom of that tank, and the height of the pipe in the bottom of the tank.

Q. Of oil shipped to Logan and Emery?—A. Yes, sir.

Q. Did you make that?—A. It is made up from our reports.

Q. Who made it?—A. It was made in the New York office. I compared it with the original of my reports.

Q. Is it a copy of the original, and is it accurate?—A. It is a copy of several reports; yes, sir.

Q. From what original paper was that constructed?—A. It is from reports telegraphed into the office each time that there was any shipment made.

Q. When you make a shipment of oil you telegraph to the main office the amount of the shipment, where it comes from, and the name of the consignee?—A. Yes, sir.

Q. And those, you say, are made up from those original telegraph reports?—A. Yes, sir.

Q. You report by telegraph?—A. Yes, sir. Some are reported by mail.

Q. Do you keep a record in your office of all shipments made?—A. Yes, sir.

Q. Daily?—A. Yes, sir.

Q. To whom and where from?—A. Yes, sir.

Q. Does that record show from which particular tank each shipment was made?—A. Yes, sir; always.

Q. Now, do you ever load cars at Milton direct from the pipe, without the oil having first gone into a tank?—A. No, sir; always from the tank.

Q. Have you not a loading rack at Milton?—A. Yes, sir; and we have no connection from the line to the loading rack, the main line. It must go into the tank first.

Q. When was your attention first called to the fact of complaint having been made already testified to by Mr. Emery that you had sent him bad oil?—A. His testimony before the committee?

Q. Yes, sir.—A. I do not think I ever saw his testimony until yesterday.

Q. When was that made up?—A. I don't know when it was made up. I never saw that until yesterday; that is, this paper.

Q. How long have you been at Milton?—A. Over six years.

Q. How long has that pumping station been open?—A. About seven years.

Q. The oil which the Pennsylvania Railroad Company carries in tank cars to tide-water is taken from Milton now, is it not?—A. That is the place where they get all their oil?—A. No, sir; I think not.

Q. Where else do they get it?—A. I don't know; I see other oil running, but I don't know where.

Q. Crude oil?—A. I don't know what it contains.

Q. Don't you load a large amount of crude oil on the cars of the Pennsylvania road at Milton?—A. Yes, sir.

Q. How much in a day, do you know?—A. As high as one hundred and twenty-one cars in one day.

Q. Is not there a schedule for an oil train leaving there daily?—A. No, sir.

Q. Does not an oil train leave there daily at a fixed time?—A. No, sir; the oil is taken away from there by a switching engine. The trains are made up at Sunbury.

Q. Do you know how many miles it is along the railroad from Milton to Philadelphia by the Pennsylvania line?—A. No, sir; I do not.

Q. It is 12 miles to Sunbury, is it not?—A. I think 14 miles.

Q. Twelve miles to Northumberland?—A. Yes, sir.

Q. Fifty-four to Harrisburg and 106 to Philadelphia?—A. I am not acquainted with the distances.

Statement of oil loaded at Milton, Pa., for Logan, Emery & Weaver. Number of tank loaded from, amount of inches of unmerchantable oil in tank, and height of swing-pipe over bottom of tank.

Date.	No. 1. Logan, Emery & Weaver.		No. 2. Other parties.		No. 3. Tank loaded from—	No. 4. BS and water on bottom.	No. 5. Location of swing-pipe from bottom.
	Cars.	Barrels.	Cars.	Barrels.			
1885.							
May 18.....	50	4,080.02	25	2,418.33	1650	Inches. 35	Inches. 72
27.....	50	4,894.33	25	2,285.40	1650	35	72
June 3.....	25	2,409.98	25	2,468.43	1649	26½	120
6.....	25	2,268.50	25	2,353.07	1650	35	72
15.....	2	171.48			1649	26½	120
16.....	1	167.52			1649	26½	120
17.....	1	85.21			1649	26½	120
18.....	46	4,389.15			1649	26½	120
19.....	25	2,405.57			1649	26½	120
29.....	30	2,814.02			1649	26½	120
July 3.....	30	2,988.67			1649	26½	120
15.....	30	2,824.21			1649	26½	120
18.....	30	2,947.83			1650	35	72
27.....	30	2,978.83			1649	26½	120
Aug. 7.....	30	2,878.81			1649	30½	120
14.....	28	2,653.24			1649	30½	120
15.....	2	193.62			1649	30½	120
17.....	30	2,853.88			1649	30½	120
25.....	9	955.26			1649	30½	120
26.....	21	1,968.02			1649	30½	120
27.....	30	2,722.50			1649	30½	120
Sept. 7.....	30	2,918.10			1649	37	120
11.....	30	2,989.17			1649	37	120
17.....	30	2,990.21			1649	37	120
19.....	30	2,768.08			1650	33½	72
24.....	30	2,809.50			1649	37	120
25.....	18	1,704.79			1649	37	120
28.....	12	1,215.07			1649	37	120
30.....	30	2,901.98			1649	37	120
Oct. 7.....	30	2,675.47			1649	36½	120
13.....	30	2,683.14			1650	33	72
14.....	30	2,983.61			1649	36½	120
28.....	26	2,584.07			1650	33	72
29.....	4	391.00			1650	33	72
Nov. 2.....	30	2,908.24			1650	34	72
6.....	30	2,859.05			1650	34	72
13.....	30	2,879.71			1649	41½	120
16.....	22	2,768.23			1649	41½	120
18.....	3	194.90			1649	41½	120
20.....	17	1,608.54			1649	41½	120
21.....	19	1,637.74			1649	41½	120
23.....	23	2,256.26			1649	41½	120
28.....	1	108.90			1650	34	72
Dec. 4.....	4	435.86			1649	38	120
5.....	26	2,492.19			1649	38	120
7.....	30	2,768.88			1650	40½	72
22.....	30	2,681.02			1649	38	120
23.....	30	2,750.19			1649	38	120
26.....	21	1,909.69			1650	40½	72
28.....	9	814.10			1650	40½	72
1886.							
Jan. 5.....	30	2,806.38			1649	40	120
13.....	27	2,746.86			1650	40	72
14.....	3	301.79			1650	40	72
16.....	30	2,721.71			1649	40	120
26.....	30	2,878.05			1649	40	120
Feb. 2.....	24	2,246.33			1649	41½	120
3.....	6	569.21			1649	41½	120
9.....	30	2,980.83			1649	41½	120
16.....	30	2,709.78			1649	41½	120
26.....	30	2,832.74			1649	41½	120
Mar. 2.....	30	2,976.81			1649	41½	120
6.....	30	2,919.05			1649	41½	120
17.....	30	2,896.86			1649	41½	120
23.....	30	2,770.50			1649	41½	120
26.....	30	2,687.10			1649	41½	120
30.....	30	2,716.79			1649	44½	120
Apr. 10.....	30	2,848.43			1649	44½	120
15.....	30	2,958.74			1649	44½	120
30.....	30	2,971.26			1649	44½	120
May 3.....	30	2,800.33			1650	44½	72

Statement of oil loaded at Milton, Pa., for Logan, Emery & Weaver, etc.—Continued.

Date.		No. 1. Logan, Emery & Weaver.		No. 2. Other parties.		No. 3. Tank loaded from—	No. 4. BS and water on bottom.	No. 5. Location of swing- pipe from bottom.
		Cars.	Barrels.	Cars.	Barrels.			
1886.								
May	7	30	2,898.55			1649	Inches. 44½	Inches. 129
	13	30	2,818.62			1649	44½	129
	18	10	974.83			1649	44½	129
	19	20	1,873.81			1649	44½	129
	21	4	387.14			1649	44½	129
	23	26	2,555.29			1649	44½	129
	24	23	2,399.26			1649	44½	129
	25	1	86.38			1649	44½	129
	26	6	603.88			1649	44½	129
	June	8	29	2,726.62			1650	45½	72
	4	1	107.96			1649	48	129
	9	30	3,018.64			1649	48	129
	11	30	2,764.79			1649	48	129
	15	1	108.96			1649	48	129
	16	29	2,697.48			1649	48	129
	19	30	2,950.21			1649	48	129
	24	30	2,874.74			1649	48	129
	29	30	2,812.64			1649	48	129
July	7	30	2,739.43			1650	46	72
	9	30	2,791.52			1649	47½	129
	12	30	2,696.31			1649	47½	129
	19	30	2,785.14			1649	47½	129
	22	30	2,789.07			1649	47½	129
	30	30	2,963.19			1649	47½	129
Aug.	9	29	2,878.36			1649	48	129
	13	36	3,363.60			1649	48	129
	16	30	2,941.93			1649	48	129
	23	30	2,871.41			1649	48	129
	30	30	2,744.21			1649	48	129
Sept.	4	23	2,001.71			1649	48	129
	6	8	688.33			1649	48	129
	13	30	2,769.62			1649	48	129
	16	30	2,833.17			1649	48	129
	28	36	2,880.02			1649	48	129
Nov.	11	30	2,788.74			1649	46½	129
	22	17	1,575.60			1649	46½	129
	23	13	1,187.29			1649	46½	129
	26	30	2,853.43			1649	46½	129
	30	30	2,762.95			1649	46½	129
Dec.	4	15	1,407.38			1649	46½	129
	6	15	1,404.48			1649	46½	129
	10	28	2,616.64			1649	46½	129
	11	2	194.38			1649	46½	129
1887.								
Feb.	9	59	4,622.31			1649	46	129
	10	50	4,759.10			1650	45½	72
Mar.	12	30	2,759.48			1649	44½	129
	26	30	2,835.19			1649	44½	129
Apr.	13	30	2,763.57			1649	41	129
	16	21	2,758.43			1649	41	129
	18	1	181.60			1649	41	129
	29	30	2,862.17			1649	41	129
May	2	30	2,905.10			1649	44	129
	9	30	2,793.57			1794	12	48
	16	60	5,442.71			1794	12	48
	23	30	2,856.71			1794	12	48
	28	30	2,742.83			1794	12	48
June	2	30	2,768.24			1794	12	48
	8	30	2,829.95			1794	12	48
	17	24	2,205.86			1794	12	48
	18	5	451.14			1794	12	48
	21	1	85.40			1794	12	48
	24	30	2,762.45			1794	12	48
July	13	30	2,814.48			1794	12	48
	Aug. 8	20	1,839.12	10	975.24	1650	43	72
	9	30	996.10	30	1,829.48	1650	43	72
Oct. 21	30	2,699.83	32	2,921.40	1650	41	72	
Nov. 7	30	2,697.45	1	85.21	1649	45	129	

* Loaded 163.97 barrels from tank 1794.

TESTIMONY OF HENRY L. DAVIS.

HENRY L. DAVIS, sworn and examined.

By Mr. GOWEN:

Q. Where do you live?—A. Philadelphia.

Q. What is your business?—A. Refiner.

Q. Of oil?—A. Of oil.

Q. With what firm are you connected?—A. The Atlantic Refining Company.

Q. It used to be Warden, Frew & Co.?—A. Yes, sir.

Q. It is one of the Standard Oil Trust?—A. It is one of the Standard Oil Trust.

Q. How long have you been engaged in that business?—A. Since 1873.

Q. Located in Philadelphia?—A. Located in Philadelphia.

Q. Were you a partner of the firm of Warden, Frew & Co. before the Standard Oil Company united with them?—A. No, sir.

Q. It was after that that you became interested?—A. Yes, sir; it was after that I became interested in refining personally.

Q. Mr. Dodd desires you to give all the information you have about the allegation or charge of Mr. Emery that bad or unmerchantable oil was furnished to his refinery. Now you are at liberty to say whatever you please upon that subject?—A. I can only say that there was a formal complaint made to me once that the oil was not satisfactory.

Q. By whom?—A. By Mr. Logan and Mr. Emery personally. I think in December, 1885.

Q. What else?—A. They claimed that the oil was a lower gravity than oil that was received from wells in the region, particularly from Mr. Emery's wells, and they thought there was Bs. in it. During a conversation with them I learned that the oil was run in the same gravity practically as that we were getting at Philadelphia. I am not sure, but I think 42 gravity.

Q. Did they say it was 42 gravity?—A. Yes, sir. I can not say they said 42, but they gave me the gravity at that time. It was running the same as ours.

Q. Was that good oil?—A. It was better than any we have had since, except premium oil.

Q. What percentage of refined oil do you get out of the oil at your refinery?—A. Seventy-five and 76, according to the grades of oil we make. It runs from 75 to 77 per cent. Of course it varies, according to the gravity of the crude.

Q. Don't you sometimes run it up to 80?—A. You might possibly, if you had a small percentage of benzine, low gravity, and did not make a large percentage of high-test oil.

Q. Where is Mr. Warden?—A. At home in Philadelphia.

Q. Mr. Dodd desires me to ask you whether premiums were ever paid on Bradford oils and on oils of other districts that were not mixed with the Bradford oils. What do you know on that subject, or desire to say?—A. I know of no premium paid on Bradford oils. There is a premium paid on lower district oil, Washington County oil, and we have received such at Philadelphia.

Q. What is that premium?—A. Eight cents a barrel.

Q. How do you receive that premium oil in Philadelphia, through the pipe?—A. Last summer we did through the pipe; now, by cars.

Q. Sent in tanks?—A. Yes, sir; by tank cars.

Q. Another question which Mr. Dodd desires you to answer is, What is the gravity of fresh Bradford crude oil?—A. I should think it would run about 41 or 42 gravity at the present.

Q. Does it ever average over 42?—A. It used to, but I don't think it would now.

Q. How high did it get?—A. We had it up as high as 45, my recollection is, at one time.

Q. The yield of refined oil from Bradford crude does not average over 76 per cent?—A. No; it does not, I think.

Q. When was it you used to get Bradford oil up as high as 45?—A. When the Bradford oil was first discovered; when the field was new.

Q. You have had nothing of that kind in the last few years?—A. No, sir; perhaps I am too high on that.

Q. There is not a difference of 20 cents per barrel in value between fresh and old Bradford crude?—A. It depends upon what you want to make out of it.

Q. How was it within the last three or four years?—A. Practically the same.

Q. Is there not a difference of 20 cents in the market value of crude oil of different qualities when the amount of refined oil that can be made out of it will vary it 10 per cent.?—A. There would not be now. Benzine is worth as much as refined oil.

Q. Would you think an oil of 42 gravity is worth the same as oil of 45 in the present state of the market for oil and benzine?—A. If you refer to the quality of the oil.

Q. I am speaking now of its market value to the refiner?—A. Practically the 42 ought to bring him as much money as the 45 of Bradford oil. That does not apply to Washington oil. There is a larger percentage of water white oil.

Q. Do all persons receiving oil by pipe line know that they must get the oil as it exists in the tanks, the larger part of it being old oil. Do you desire to say anything upon that subject?—A. When we have made any request for oil we have been met by that statement that it was impossible to give us anything else than the variety that the tanks of the Transit Company hold; that no small amount of premium or any other quality of oil than what we were getting could be passed through the pipe.

Q. When Logan, Emery & Weaver desired to use the better class of oils did they order it shipped by rail from the proper districts, paying the usual premium for it, and did not expect to receive it by pipe line?—A. They did. They came to me to know if we would ship them premium oil under the arrangement with the Transit Company; but they expected me to bring it by cars. I told them they were at liberty to bring it by cars themselves; that is just what we would have to do. They did so.

Q. Have you anything to do now with the refinery of Emery, Logan & Weaver that was bought out?—A. Yes, sir; the Logan, Emery & Weaver Refinery now belongs to our refinery company.

Q. How long have you been running it?—A. We have not been running it.

Q. It has been idle ever since you bought it?—A. We have not been running our own refinery since we bought it.

Q. You have not run that at all?—A. No, sir.

Q. Have you never run it since you bought it?—A. No, sir. We have never run our own refinery fully since we bought that.

The CHAIRMAN. Now there is some other testimony which you have suggested here, which you offer in the nature of records which will be marked.

Mr. DODD. It is the indictment, etc., in that Buffalo case.

The CHAIRMAN. That is admitted for the reason that upon the examination of Mr. Matthews here before the committee he agreed to furnish us with this copy of the record, and as he has not done so I will put it in the case to complete his testimony.

Mr. DODD. I also have a copy of the affidavit of the jurors in that case.

The CHAIRMAN. This portion we will have to dispose of in executive session. I understood that this affidavit was an affidavit forming a part of the record.

Court of Oyer and Terminer, Erie County. The people *against* Hiram B. Everest and Charles M. Everest. Bill of exceptions.

At a term of the Erie Court of Sessions, in February, 1886, an indictment was found by the grand jury for said county against these defendants, together with Henry H. Rogers, John D. Archbold, and Ambrose McGregor, as follows:

Court of Sessions of the County of Erie. The people of the State of New York *against* Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor.

The grand jury of the county of Erie, by this indictment, accuses Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor of the crime of conspiracy, committed as follows:

That heretofore, prior to the finding of this indictment, and on the 3d day of June, 1881, Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and certain other persons, corporations, and firms in confederation with and controlled by them, to the grand jury unknown, which said individuals, persons, firms, and corporations then controlled and had for many years controlled the business of producing, manufacturing, refining, and buying and selling petroleum and lubricating oils, and had a monopoly thereof, said petroleum and its products and lubricating oils then being, and having long been, in great demand throughout the United States and other countries, for the purpose of lubricating machinery, and for light and for other purposes, and being articles of trade and commerce, and said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and the said unknown persons, corporations, and firms, so owned and controlled by them, having for many years controlled, and then controlling the market of petroleum, and of refining and lubricating oils, and making and receiving theretofore, and then, large profits and sums of money therefrom, wrongfully and unlawfully intending and devising to prevent all other persons, firms, and corporations from producing, manufacturing, refining, or selling petroleum or any kind of lubricating oils made in whole or in any part therefrom, and to prevent competition in said business with themselves and corporations owned and controlled by them, and to control all petroleum and lubricating oils, and their production, manufacture, or sale as articles of trade and commerce, and to build up and maintain and continue a monopoly of said business whereby they might extort from all persons engaged in said business or using petroleum or any of its products twice and thrice its actual value, and thereby obtain and continue to receive, as they had long done, large sums of money and valuable considerations to the great injury of commerce and trade, and especially to destroy the Buffalo Lubricating Oil Company, Limited, a corporation duly organized and existing under the laws of the State of New York, and its business and property acquired or to be acquired to that end, and the property of all its shareholders and stockholders, because said individuals, firms, and corporations then and there well knew they would otherwise be unable longer to maintain said monopoly and obtain such unjust gains, they, the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and certain corporations and firms, and certain other persons to the grand jury unknown, then and there at the city of Rochester, in the county of Monroe and State of New York, on the 3d day of June, 1881, did wrongfully conspire with each other to obtain, maintain, and continue a monopoly of the business of producing, refining, manufacturing, buying, and selling petroleum or any burning or lubricating oils or substances made in whole or in part therefrom throughout the United States and other countries, as articles of trade and commerce, and in particular in the

county of Erie aforesaid, and to prevent any firm, corporation, or person not in league with or controlled by them from engaging in said business anywhere in the United States, and in particular in the county of Erie aforesaid, where said business could be carried on with profit by all persons, firms, or corporations; and to prevent Charles B. Matthews, J. Scott Wilson, Hiram Benedict, and other persons to the grand jury unknown, from organizing and conducting the Buffalo Lubricating Oil Company, Limited, as a domestic corporation, which said last-mentioned persons did, nevertheless, organize in Erie County aforesaid for the purpose of conducting said business therein, and to destroy the Buffalo Lubricating Oil Company, Limited, a domestic corporation so duly organized and existing at the city of Buffalo, county of Erie, and State of New York, on the said 3d day of June, 1881, which was then engaged in completing works in the said city of Buffalo, and thereby prevent it from carrying on its business of producing, manufacturing, refining, and selling petroleum and its products, and all kinds of lubricating oils at Buffalo, in Erie County aforesaid, and throughout the United States and all other countries; and to destroy the machinery, buildings, products, and property of the said Buffalo Lubricating Oil Company, Limited, which were then of great value, and then situate and being in the city of Buffalo aforesaid; and to destroy the credit of the Buffalo Lubricating Oil Company, Limited, and to destroy the stock, shares, interests, rights, and property of Charles B. Matthews, J. Scott Wilson, Hiram Benedict, and other parties to the grand jury unknown, then stockholders, officers, or parties interested in the said Buffalo Lubricating Oil Company, Limited, and all the property and rights of property of any stockholder or other person in the said Buffalo Lubricating Oil Company, Limited; and to destroy the property, rights, and franchises of the said Buffalo Lubricating Oil Company, Limited, and of the said Charles B. Matthews, J. Scott Wilson, Hiram Benedict, and other persons to the grand jury unknown, interested with them in said Buffalo Lubricating Oil Company, Limited, to the end that they might prevent competition to themselves in said business of producing, manufacturing, refining, and selling petroleum and all kinds of lubricating oils, and especially to the end that they might prevent any other person, corporation or firm from competing with the Standard Oil Company, a corporation organized and existing in the State of Ohio, and the Acme Oil Company, a corporation then organized and existing in the State of New York, and the Vacuum Oil Company, a corporation then organized and existing in the State of New York, which said last three corporations were owned, managed, officered by and controlled, and had been for many years prior to the said 3d day of June, 1881, by the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and the said firms and corporations so controlled by them as aforesaid, and also that they might thereby absolutely control throughout the United States and the entire world the said business of producing, manufacturing, refining, and selling petroleum and all kinds of lubricating oils, and to prevent the said Buffalo Lubricating Oil Company, Limited, and the said Charles B. Matthews, J. Scott Wilson, Hiram B. Benedict, and all other persons interested with them, or who might be interested with them, from prosecuting, carrying on, continuing in, or engaging in said business of producing, manufacturing, refining, or selling petroleum or any kind of lubricating oil, as said Buffalo Lubricating Oil Company, Limited, and Charles B. Matthews, J. Scott Wilson, and Hiram Benedict, and other persons interested with them, or who might be interested with them, then and thereafter might lawfully do; and to prevent said last-mentioned corporation and persons from realizing any profits in said last-mentioned business; and to destroy the rights, liberties, and franchises of said last-mentioned corporation, which it might thereafter acquire; and to destroy the rights, privileges, franchises, and property of all shareholders of said last-mentioned corporation which they might thereafter acquire in or by virtue of said business of said last-mentioned corporation; and to wrongfully and unlawfully entice from the employ of said Buffalo Lubricating Oil Company, Limited, its skilled workmen, and in particular one Albert A. Miller, who was then known by them to be in the employ of the Buffalo Lubricating Oil Company, Limited, and without whose aid, assistance, and supervision the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and their confederates, to the grand jury unknown, then and there well knew the said Buffalo Lubricating Oil Company, Limited, could not complete its works or produce, manufacture, refine, or sell petroleum or any kind of lubricating oil, successfully; and to prevent the Buffalo Lubricating Oil Company, Limited, from completing its works, which they, the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, then and there, on the 3d day of June, 1881, well knew were incomplete; and to bribe and hire Albert A. Miller and other skilled workmen then in the employ of the Buffalo Lubricating Oil Company, Limited, to so construct its works that said works would not answer the purposes for which they were intended, and would be defective, and could not be successfully operated, but would blow up and explode and

destroy themselves while in operation; and to hire the said Albert A. Miller and other workmen then in the employ of the Buffalo Lubricating Oil Company, Limited, to so operate its works that the crude petroleum which it should undertake to refine and convert into lubricating oil would be converted into coke and tar and other substances of little value instead of lubricating and refined oils of great value; and to hire said Albert A. Miller and other workmen of the Buffalo Lubricating Oil Company, Limited, who might be in its employ, to build unnecessarily hot fires in its furnaces and thereby convert the oils contained in its stills into worthless, inflammable, and explosive gases, which would explode and seriously impair the machinery and works of said last-mentioned corporation and destroy the same; and to institute and to maintain suits at law and in equity in the courts of the United States and in the courts of the State of New York, which said conspirators then and there knew to be unfounded in merit; and to falsely represent and state to all purchasers of and dealers in petroleum, refined and lubricating oils, by means of agents and employes, that the Buffalo Lubricating Oil Company, Limited, had no right to manufacture or put upon the market the kind of lubricating oils that it should thereafter manufacture, in the form in which they were to be put on the market, or the manner in which they were to be manufactured, and to so represent and claim by means of said suits so to be instituted and maintained, and to hire witnesses to falsely testify that the Buffalo Lubricating Oil Company, Limited, was infringing some patent or trade-mark in manufacturing lubricating oils and putting them on the market, in said suits; and to wrongfully obtain through Albert A. Miller, or any of its other employes, the business secrets of said corporation, the Buffalo Lubricating Oil Company, Limited, for the purpose of using them in planning and wrongfully compassing its injury and destruction, and to commit acts injurious to public morals and to trade and commerce by all the means in their power or which they could devise, and in particular by the means and in the manner hereinbefore set forth, whereby petroleum, refined or lubricating oils, articles of commerce and trade of great value, and in great demand throughout the United States and other countries, should be retained within their control, and that they should be enabled to extort from all purchasers twice and thrice their actual value, and to maintain a monopoly thereof, and unlawfully prevent all corporations, firms and persons not in confederation with them and controlled by them from producing, manufacturing, refining or selling petroleum or any kind of lubricating oil made in whole or in part therefrom, or realizing any profit thereon; all the matters and things hereinbefore set forth being parts and matters and provisions of one agreement and conspiracy and for one end and purpose as hereinbefore set forth, as made and entered into by the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and other persons and certain corporations and firms to the grand jury unknown, at Rochester, county of Monroe and State of New York, on the 3d day of June, 1881.

The grand jury aforesaid do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry R. Rogers, and Ambrose McGregor, and other persons and firms to the grand jury unknown, did wrongfully and unlawfully commit the following overt acts as a part of the said conspiracy and pursuant thereto and in furtherance thereof, to effect and attain the objects and purposes of said conspiracy at the city of Buffalo, county of Erie and State of New York, prior to the finding of this indictment, to wit: That upon the 15th day of June, 1881, at Buffalo aforesaid, the said Hiram B. Everest, Charles M. Everest, Henry H. Rogers, John D. Archbold, and Ambrose McGregor, and the said persons, firms and corporations to the grand jury unknown, did wrongfully entice Albert A. Miller from the employ of the Buffalo Lubricating Oil Company, Limited, and did wrongfully and unlawfully induce him to enter their employ, and the nominal employ of the said Vacuum Oil Company, and did wrongfully pay said Albert A. Miller large sums of money therefor, and did wrongfully agree to pay him other large sums of money therefor; and did wrongfully induce the said Albert A. Miller upon or about the 15th day of June, 1881, at Buffalo aforesaid, to build and cause to be built in the furnaces, stills, works, and apparatus of the Buffalo Lubricating Oil Company, Limited, such body corporate, unnecessarily hot fires; and said Albert A. Miller did, under and in pursuance of the instructions of the said conspirators, wrongfully build, upon the date and at the place last aforesaid, in the works, furnaces, stills, and apparatus of the Buffalo Lubricating Oil Company, Limited, such body corporate, unnecessarily hot fires, and did close the safety valves and other means of exit provided for dangerous gases generated by crude petroleum in such stills or apparatus when subjected to unnecessarily hot fires, and thereby said crude petroleum was resolved into dangerous, explosive, and inflammable gases and substances, and the life and limb of persons employed in the works of the Buffalo Lubricating Oil Company, Limited, then and there being greatly endangered, and said crude petroleum was destroyed together with the lubricating and illuminating oils contained therein, and said apparatus, works, and property of the Buffalo Lubricating Oil Company, Limited, were endangered and

were greatly injured, impaired, and damaged; and said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and persons, firms, and corporations to the grand jury unknown, did wrongfully and unlawfully hire said Albert A. Miller to wrongfully obtain from the Buffalo Lubricating Oil Company, Limited, its business secrets, and he did wrongfully deliver said secrets to them, and they did pay said Albert A. Miller large sums of money for doing said unlawful acts pursuant to said conspiracy, and did promise and furnish him immunity from the results thereof.

And the grand jury do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and other persons and corporations to the grand jury unknown, did commit, at Buffalo aforesaid, other overt acts pursuant to said conspiracy, as a part thereof and in furtherance thereof, to effect and attain the objects and purposes of said conspiracy, as aforesaid, to wit: That on or about September 1, 1881, they did wrongfully institute and seek to maintain an action in the supreme court, Monroe County, against J. Scott Wilson, an employé of the Buffalo Lubricating Oil Company, Limited, such body corporate, said action being in the name of the Vacuum Oil Company, by serving the process in said action upon said J. Scott Wilson in the county of Erie and city of Buffalo, on the day last aforesaid, and it being wrongfully pretended by said action that said J. Scott Wilson had unlawfully left the employ of the Vacuum Oil Company and broken a contract with it whereby it had been damaged; that said action was unfounded in merit, as said conspirators well knew, and was instituted for the purpose of destroying the Buffalo Lubricating Oil Company, Limited, and its business, and that of its stockholders, and of depriving the Buffalo Lubricating Oil Company, Limited, such body corporate, of the services of said J. Scott Wilson, by causing said Wilson, from fear induced by said suit, to leave its employ, and said Wilson did thereafter wrongfully leave the employ of said Buffalo Lubricating Oil Company, Limited, such body corporate, by reason of the bringing of such unfounded suit against him, and thereupon said conspirators withdrew said action and paid all the expenses connected therewith; that by reason of the said last-named acts the said Buffalo Lubricating Oil Company, Limited, was greatly injured in its business, property, and means of doing business.

And the grand jury aforesaid do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor and other persons, firms, and corporations to the grand jury unknown, at Buffalo aforesaid, on or about the 16th day of September, 1881, did commit another overt act pursuant to said conspiracy and in furtherance thereof, and to effect and attain the objects and purposes of said conspiracy as aforesaid, to wit: that they did wrongfully institute and seek to maintain a certain action, which they knew to be unfounded in merit, in the circuit court of the United States for the northern district of New York, in the name of Hiram B. Everest, as plaintiff, against the Buffalo Lubricating Oil Company, Limited, such body corporate, as defendant, and did then and there, at the said city of Buffalo, in said county, cause certain papers in said action to be served on said defendant; that said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates, to the grand jury unknown, caused the said action to be brought to trial, and wrongfully sought to maintain the same by pretending therein that the Buffalo Lubricating Oil Company, Limited, such body corporate, had infringed upon a certain patent covering the use of a certain fire-test, and to more effectually falsely maintain said action said conspirators did wrongfully induce and hire certain witnesses to falsely swear and state upon the trial that certain events had transpired, and that the Buffalo Lubricating Oil Company, Limited, had done certain acts in connection with said fire-test, which event said conspirators well knew had not transpired, and which acts said conspirators well knew the Buffalo Lubricating Oil Company, Limited, had not done, and thereby greatly injured said last-mentioned corporation in its property and business, and said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates, to the grand jury unknown, did wrongfully publish to the world, and especially in the county of Erie and city of Buffalo did publish and cause to be published, the fact that said action had been brought, to the great injury of said Buffalo Lubricating Oil Company, Limited, and its credit.

And the grand jury aforesaid do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor, and other persons, firms, and corporations to the grand jury unknown, did wrongfully, and in pursuance of said conspiracy, and as part thereof, commit the following overt acts at Buffalo aforesaid, to effect and attain the objects and purposes as aforesaid, to wit: That said conspirators did wrongfully institute and seek to maintain a certain action in the circuit court of the United States of the northern district of New York, in the name of the Vacuum Oil Company, as plaintiff, against the Buffalo Lubricating Oil Company, Limited, as defendant, which action they well knew was unfounded in merit, and did cause process and papers in said action and suit to be served upon the Buffalo Lubricat-

ing Oil Company, Limited, the defendant therein, in the city of Buffalo and county of Erie aforesaid, on the 21st day of February, 1882, in which action said conspirators did wrongfully and falsely pretend and seek to maintain that said Buffalo Lubricating Oil Company, Limited, had infringed upon patents owned by the Vacuum Oil Company, which covered all processes by which the said Buffalo Lubricating Oil Company, Limited, was manufacturing lubricating oils; and did falsely circulate reports and make statements to purchasers of lubricating oils and to customers and patrons of the Buffalo Lubricating Oil Company, Limited, in the State of Massachusetts, at Boston, Worcester, and elsewhere, to the effect last aforesaid, and did induce and hire witnesses to falsely testify in said action that certain matters were facts which were not facts, as they well knew, but said court did find said action unfounded in merit and did dismiss the same for want of merit; that by reason of said last-mentioned acts the said Buffalo Lubricating Oil Company, Limited, was greatly and wrongfully injured in its business and credit.

And the grand jury aforesaid do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and other persons, firms, and bodies corporate to the grand jury unknown, at Buffalo aforesaid, in said county, prior to the finding of this indictment, and on the 25th day of April, 1882, did wrongfully and unlawfully commit another overt act pursuant to and as a part of said conspiracy and in furtherance thereof, to effect and attain the objects and purposes of said conspiracy as aforesaid, to wit: That the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates to the grand jury unknown, did then and there wrongfully institute and seek to wrongfully and unlawfully maintain an action in the circuit court of the United States for the northern district of New York in the name of the said Vacuum Oil Company, a body corporate, as plaintiff, against the Buffalo Lubricating Oil Company, Limited, such body corporate, defendant, and did cause process and papers in said action and suit, which they well knew to be unfounded in merit, to be served upon the defendant therein, the Buffalo Lubricating Oil Company, Limited, in the city of Buffalo and county of Erie aforesaid; that said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates, to the grand jury unknown, did falsely pretend in and by said action that said last corporation had infringed upon certain patents belonging to the Vacuum Oil Company in using certain apparatus in the manufacture of oil which was covered by then existing patents of the Vacuum Oil Company, although said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates well knew the said claim, pretense, and action to be unfounded in merit, and said court did dismiss said action for want of merit therein, although said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates, who sought wrongfully to maintain said action by inducing and hiring witnesses to falsely testify to certain matters as facts which they knew were not facts, and notwithstanding they knew such witnesses were testifying falsely in so doing; that by reason of said last-named acts the said Buffalo Lubricating Oil Company, Limited, was greatly and wrongfully injured in its business and credit.

And the grand jury aforesaid do further present that the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and other persons, firms, and bodies corporate in confederation with them, to the grand jury unknown, at Buffalo, in the said county of Erie, prior to the finding of this indictment and upon the 3d day of August, 1885, and again upon the 18th day of January, 1886, did wrongfully and unlawfully commit another act pursuant to and as a part of said conspiracy, in furtherance thereof, and to effect and attain the objects and purposes of said conspiracy as aforesaid, to wit: That said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates to the grand jury unknown did then and there wrongfully and unlawfully induce one Lane Borrell, then and there being in the employ of the said Buffalo Lubricating Oil Company, Limited, on each of the dates last aforesaid, in the county of Erie and city of Buffalo, surreptitiously, unlawfully, and wrongfully obtain from the Buffalo Lubricating Oil Company, Limited, its business secrets and valuable information, and did pay him large sums of money to deliver such business secrets and valuable information to them upon each of the dates last aforesaid, as he did do, and did wrongfully induce him to remain in the employ of the said Buffalo Lubricating Oil Company, Limited, at Buffalo, in said county of Erie, continuously from the first of the dates last aforesaid to the last of the dates last aforesaid, and to continuously deliver to them the business secrets and knowledge of the said Buffalo Lubricating Oil Company, Limited, so wrongfully obtained by him, as he did do, and did wrongfully pay him large sums of money therefor; and they, the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, Ambrose McGregor, and their confederates did use said business secrets and such valuable knowledge of the business and customers of the Buffalo Lubricating Oil Company, Limited, wrongfully and unlawfully for the purpose of maintaining their said

monopoly in said business of producing, manufacturing, refining, buying, and selling petroleum and its products and lubricating oils made in whole or in part from petroleum, and for the purpose of destroying competition in trade and injuring said Buffalo Lubricating Oil Company, Limited, and its stockholders in every possible manner, by wrongfully preventing persons from buying its products of the Buffalo Lubricating Oil Company, Limited, who otherwise would have done so, to the great injury of the trade and commerce of the people of the United States and city of Buffalo and county of Erie in particular, and as aforesaid.

And because of the conspiracy hereinbefore set forth, and the other acts committed thereunder for the purpose of effecting and attaining its objects contrary to the statute in such case made and provided, and derogatory to the dignity of the people of the State of New York and the laws of said State, the grand jury for the county of Erie do upon their oaths, by this indictment, solemnly accuse the said Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor of the crime of conspiracy.

EDWARD W. HATCH,
District Attorney of the County of Erie.

The said indictment was thereupon, on motion of the district attorney, removed from the said court of sessions to this court.

Thereafter all of the said defendants demurred to the said indictment, as follows:

Court of Oyer and Terminer, County of Erie. The People of the State of New York against Hiram B. Everest, Charles M. Everest, John D. Archbold, and Ambrose McGregor.

And now come John D. Archbold, Henry H. Rogers, and Ambrose McGregor, three of the defendants in the above-entitled action, and hereby withdraw their former plea of not guilty, heretofore entered in said action, and they demur to the indictment heretofore found against them in the court of sessions of the county of Erie, and filed with the county clerk of Erie County, February 1, 1886, and they state the following grounds of demurrer:

First. That the indictment does not conform substantially to the requirements of sections 275 and 276 of the Code of Criminal Procedure, in this: That said indictment does not contain a plain and concise statement of the act constituting the crime without unnecessary repetition.

Second. That more than one crime is charged in the indictment within the meaning of sections 278 and 279 of the Code of Criminal Procedure, to wit: conspiracy, arson, attempt at arson, and subornation of perjury.

Third. That more than one crime is charged in the indictment within the meaning of section 278 of the Code of Criminal Procedure, to wit: conspiracy, arson, attempt at arson, and subornation of perjury.

Fourth. That more than one crime is charged in the indictment within the meaning of section 279 of the Code of Criminal Procedure, to wit: conspiracy, arson, attempt at arson, and subornation of perjury.

Fifth. That the same crime is charged in the indictment to have been committed in a different manner and by different means within the meaning of section 279 of the Code of Criminal Procedure, and for that reason the crime should be charged in separate counts.

Sixth. That more than one crime is charged in the indictment within the meaning of section 279 of the Code of Criminal Procedure; that the acts complained of constitute different crimes, and such crimes should be charged in separate counts.

Seventh. That the indictment contains matter which, if true, would constitute a legal bar to the prosecution, in this: That whereas the indictment is for a misdemeanor, it nevertheless charges a felony, namely, subornation of perjury; and another felony, namely, arson and attempt at arson.

Eighth. That the facts stated in the indictment do not constitute a crime.

CHARLES W. GOODYEAR,
Attorney for Defendants,
John D. Archbold, Henry H. Rogers, and Ambrose McGregor,
No. 248 Main street, Buffalo, N. Y.

Court of Oyer and Terminer—county of Erie. The People of the State of New York against Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor.

And now come Hiram B. Everest and Charles M. Everest, two of the defendants in the above-entitled action, and hereby withdraw their former plea of not guilty hereto-

fore entered in said action, and they demur to the indictment heretofore found against them in the court of sessions of the county of Erie, and filed with the county clerk of Erie County, February 1, 1886, and they state the following grounds of demurrer:

First. That the indictment does not conform substantially to the requirements of sections 275 and 276 of the Code of Criminal Procedure, in this, that said indictment does not contain a plain and concise statement of the act constituting the crime, without unnecessary repetition.

Second. That more than one crime is charged in the indictment, within the meaning of sections 278 and 279 of the Code of Criminal Procedure, to wit, conspiracy, arson, attempt at arson, and subornation of perjury.

Third. That more than one crime is charged in the indictment, within the meaning of section 278 of the Code of Criminal Procedure, to wit, conspiracy, arson, attempt at arson, and subornation of perjury.

Fourth. That more than one crime is charged in the indictment, within the meaning of section 279 of the Code of Criminal Procedure, to wit, conspiracy, arson, attempt at arson, and subornation of perjury.

Fifth. That the same crime is charged in the indictment to have been committed in a different manner and by different means, within the meaning of section 279 of the Code of Criminal Procedure, and for that reason the crime should be charged in separate counts.

Sixth. That more than one crime is charged in the indictment within the meaning of section 279 of the Code of Criminal Procedure; that the acts complained of constitute different crimes, and such crimes should be charged in separate counts.

Seventh. That the indictment contains matter, which, if true, would constitute a legal bar to the prosecution, in this, that whereas the indictment is for a misdemeanor, it nevertheless charges a felony, namely, subornation of perjury; and another felony, namely, arson and attempt at arson.

Eighth. That the facts stated in the indictment do not constitute a crime.

T. G. OUTERBRIDGE,

*Attorney for Defendants Hiram B. Everest and Charles M. Everest,
105 Powers' Block, Rochester, N. Y.*

THEODORE BACON, *of Counsel.*

The said demurrers having been argued before Mr. Justice Childs, the same were overruled; and thereupon the said defendants, and each of them, pleaded not guilty to the said indictment. Thereafter the said defendants moved, upon due notice to the district attorney, and upon affidavits, whereof the following are copies, to the effect specified in the following notice of motion:

Court of Oyer and Terminer of the county of Erie. The People of the State of New York *against* Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose M. McGregor.

STATE OF NEW YORK,
County of Monroe, ss:

CHARLES M. EVEREST, being duly sworn, says:

I am one of the defendants named in the above-entitled action; the indictment therein was found against me and the above-named defendants, jointly, in the court of sessions of the county of Erie, on the — day of February, 1886, and was subsequently removed into this court on motion of the district attorney; demurrers were interposed on behalf of the defendants; said demurrers were overruled, and the defendants pleaded over, and on the 6th day of December, 1886, pleas of not guilty were entered for them; I have fully and fairly stated the case in this action to Theodore Bacon, esq., my counsel in this action, who resides in Rochester, in said county of Monroe, and I have a good and substantial defense on the merits to the action, as I am advised by my said counsel, and verily believe to be true.

In the month of March, 1885, an action brought by the Buffalo Lubricating Oil Company, Limited, of Buffalo, against said Hiram B. Everest and myself, was brought to trial at a circuit term of the supreme court, held in and for the county of Erie; said action was brought for an alleged conspiracy to ruin and bankrupt the plaintiff; the said conspiracy consisting, it was alleged, in attempting to prevent the plaintiff from carrying on its business; in falsely representing that the plaintiff's oils were of an inferior quality, and that it could not lawfully make them; in attempting to prevent the plaintiff from obtaining crude oil for manufacturing purposes at reasonable prices; in enticing from the plaintiff's employment its skilled workmen; in bringing malicious civil suits without probable cause; and in threatening plaintiff's customers with law suits in the

event of their continuing to purchase from the plaintiff. It was also alleged that the defendants in said action conspired to destroy the plaintiff as a competitor of the Vacuum Oil Company, of said Rochester, and of the Standard Oil Company. The complaint also set forth the relations between the defendants in said action and the said Vacuum Oil Company, and further alleged that three-fourths of the stock of the said Vacuum Oil Company had been transferred to the Standard Oil Company, or to their trustees. It contained the further allegation that the defendants in said action, said Hiram B. Everest and myself, were hired to look after the alleged joint interests of the Vacuum and Standard Oil Companies.

Soon after the trial of said action, to wit, about March 16, 1885, the said Buffalo Lubricating Oil Company, Limited, brought a second civil action, for substantially the same cause, against said Hiram B. Everest and myself, including as additional defendants John D. Archbold and Henry H. Rogers, defendants herein, and also the Vacuum Oil Company, the Standard Oil Company of New York, and the Acme Oil Company of New York.

Said civil actions cover substantially the same ground as the indictment herein, and the principal witnesses that testified for the plaintiff on the trial of the first civil action, testified before the grand jury, and upon their testimony, as I am informed and believe, the indictment herein was found; among said witnesses was one Albert A. Miller, upon whom, apparently, the plaintiff most relied in the first civil action.

The indictment herein charges, among other things, that the defendants at Buffalo, on or about the 15th day of June, 1881, induced said Miller to build unnecessarily hot fires in the furnaces of the said Buffalo company's works; that Miller did so, and closed the safety-valves, whereupon the crude petroleum and the lubricating and illuminating oils were destroyed, and the apparatus and works of said company greatly injured and damaged.

I further say that I was present at the taking of the deposition of said Albert A. Miller, on the part of the plaintiff, in said first civil action, to wit: That of the Buffalo Lubricating Oil Company, Limited, against Hiram B. Everest and myself. According to my best recollection said deposition was taken on or about the 23d day of July, 1884, before W. H. Slocum, stenographer and notary public, in the city of Buffalo. In said deposition said Miller testified to having several conversations with me in reference to the Buffalo company; and he distinctly testified that nothing that I asked him to do would create an explosion. I further say that according to my best recollection said Miller did not in said deposition say one word tending to show that my father, said Hiram B. Everest, at any time asked him, the said Miller, to interfere in any way with the apparatus or works of the said Buffalo company.

On or about the 15th day of March, 1886, the depositions of said Miller and of one Walter Groves, in said second civil action, were taken before trial on the part of the plaintiff, in Buffalo, before a referee. I was present during the taking of said depositions. On his direct examination in his last-mentioned deposition said Miller testified that he told the fireman to draw the fire, because he, Miller, saw that if he kept on firing an explosion might take place. He further said that what he intended to do was to "give them a little scare." "I did not," he said, "really intend to blow up anything."

The indictment charges the defendants with subornation of perjury in two patent suits therein set forth, one begun the 21st day of February, 1882, and the other on the 25th day of April, 1882. In the first of said patent suits there were called only two witnesses, to wit, said Walter Groves, by whom the infringement of the patent by the Buffalo company was proved, and Rufus F. Osgood, of Rochester, N. Y., a patent expert, who was called and examined only as an expert upon the scientific questions involved. In the second of said patent cases there were called as witnesses said Groves and said Osgood, Joseph Roe, of said Rochester, and Marshall Bannister, of the same place. Said Roe and Bannister were called to prove simply that said Miller, while yet in the employment of the Vacuum Oil Company, and just prior to his going to Buffalo to organize said Buffalo company, used the Vacuum Oil Company's patterns for castings to be used in Buffalo. They were examined and testified on no other subject. In his deposition in said first action for conspiracy said Miller was asked this question: "Mr. Miller, when you were getting up your fittings for this business here, did you use the patterns of the Vacuum Oil Company to get your castings from?" He answered: "I believe there were some of the company's patterns used." Said Groves and said Osgood testified as in the former of the above-mentioned patent suits; that is to say, said Groves testified to facts showing infringement by the Buffalo company, and said Osgood testified only as an expert, expressing his opinion upon the scientific questions involved.

I further say that in his said deposition in said second action for conspiracy said Walter Groves distinctly testified that what he testified to in said patent cases was the truth. He further testified that he was not asked by any one in said patent cases to testify to anything that was not true.

On account of the foregoing, I ask to be furnished, within a reasonable time before the trial of the indictment herein, with a copy of the minutes of the evidence given before the grand jury, upon which they found the indictment herein. I ask for said minutes for two reasons: First, in order that I may be able, if said Miller's testimony before said grand jury shall be found to conflict with his depositions, or either of them, above-mentioned, to bring the matter before the grand jury of the county of Erie.

I further say that an inspection of the indictment discloses apparently that the defendants are charged with separate and distinct conspiracies; and, further, some of the charges are so indefinite and uncertain, and appear, in so many cases, to be repeated unnecessarily, that I am unable to ascertain with certainty with what I am charged. It is charged, among other things, that the defendants conspired on the 3d day of June, 1881, to prevent certain persons from organizing the Buffalo company. In another portion of the indictment, it appears that company was, on that very day, "organized and existing." It is charged that the defendants conspired to destroy the said company. This is substantially repeated in another portion of the indictment; and again, elsewhere in said indictment, it is said that the defendants conspired to destroy the credit of the Buffalo company, and to destroy the stock, etc., of Matthews and others. This, so far as I am able to ascertain, is either twice repeated, or else separate and distinct conspiracies are charged. Again, it is charged that the defendants conspired to destroy the rights, liberties, franchises, and property of said company, and to destroy the rights, privileges, etc., of its shareholders. It is further charged that the defendants conspired to monopolize the oil business throughout the United States and other countries, and this charge is twice repeated in said indictment, so far as I am able to ascertain; but if not repeated, then distinct and separate conspiracies are charged; and, further, it is charged that the defendants conspired to prevent Matthews and others from organizing and conducting the said company, and this is substantially repeated; and further, the defendants are charged with subornation of perjury, and are not apprised of time, place, person, or subject-matter. On account of the foregoing I can not safely proceed to the trial of the indictment herein, as I am also advised by my counsel, and verily believe, until I am furnished with a bill of particulars.

CHARLES M. EVEREST.

Subscribed and sworn to before me this 16th day of December, 1886.

A. L. MABBETT,

Notary Public.

Court of Oyer and Terminer of the county of Erie. The people of the State of New York vs. Hiram V. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose McGregor.

COUNTY OF ERIE,
City of Buffalo, ss:

CHARLES B. MATTHEWS, being duly sworn, says:

I am president of the Buffalo Lubricating Oil Company, Limited, and reside in the city of Buffalo. I had charge and have charge of the litigations pending in the Supreme Court wherein the Buffalo Lubricating Oil Company, Limited, is plaintiff, and Charles M. Everest and others are defendants, being the same actions referred to in the affidavit of Charles M. Everest. On the trial of the first action brought against Charles M. Everest, Hiram B. Everest alone, I was present and heard the testimony given. I also heard Hiram B. Everest, Albert A. Miller, and Martin S. Kelly examined and their testimony read upon the trial. The action brought against the two Everests and Archbold, Rogers, and the Standard Oil Company and Acme Oil Company has not been brought to trial, because the Standard and the Acme Oil Company demurred to the complaint. These demurrers have been overruled by the special term and the general term, and those companies are now appealing to the court of appeals. In my judgment the only object in interposing the demurrers and taking the appeals is delay, as the demurrers are plainly hopeless, as I am advised by counsel and verily believe, and as the courts have uniformly decided.

On the trial of the action brought against the Everests alone for conspiracy referred to the affidavit of Charles M. Everest, Charles M. Everest was present, but did not testify or seek to exonerate himself or prove his innocence, although he heard the testimony given. The testimony taken upon the trial was reported by a stenographer and was printed out and filed in the county clerk's office of this county. Mr. Outerbridge, the attorney for the Everests, who is the son-in-law of the one and the brother-in-law of the other of the Everests, made a proposed case on which to move a new trial from this testimony, and the motion was made before Justice Barker for a new trial upon the

ground that the award of \$20,000 damages was excessive, and Justice Barker finally granted a new trial upon this ground. After the trial of this action, wherein the conspiracy to destroy the Buffalo Lubricating Oil Company, Limited, was so clearly shown, I obtained a hearing before the grand jury of this county, and the result was these defendants were indicted for the conspiracy shown to exist upon that trial. They succeeded in getting the first indictment set aside upon some technicality by Justice Daniels, who ordered the case re-presented to the grand jury, and I accordingly appeared before the next grand jury for that purpose, and the result was the present indictment, found nearly a year ago.

I do not to-day know all the parties to the conspiracy, nor can I tell where the names of all the parties to the conspiracy can be learned, except that I believe and am convinced from the evidence given on the trial that any one of these defendants can give the names of every party to the conspiracy, whether a corporation or individual. The defendants' attorneys in the case, and upon the examination before trial in this action, cross-examined Mr. Miller fully as to his statements concerning the directions given to him and the work he did towards destroying the works of the Buffalo Lubricating Oil Company, and learn personally the place and date whenever they care to know it, or he could give it, as will appear from his testimony; also, concerning the sums of money he received, which was corroborated by the sworn statement of the proper officer of the Vacuum Oil Company in the entries of their own books, giving date and the amount of money paid to Miller, and by the testimony of Hiram B. Everest and Miller's wife. The defendants Everest themselves, examined by a reputable lawyer of Rochester, Mr. Truesdale, with reference to some of these transactions, and it conclusively appeared from his testimony and that of other witnesses whose evidence was given upon the first trial that Mr. Miller had not stated the case as strong against the defendants as the evidence would warrant.

Upon taking of the deposition of Miller and Groves in the last action there were present Mr. Dodd, of New York, representing Mr. Archbold, Rogers; Mr. Goodyear, of this city, representing the Standard and Acme Oil Companies; Mr. Outerbridge and Mr. Bacon, of Rochester, representing the Everests and the Vacuum Oil Company; Mr. Selden, of Rochester, representing the same interests, and the Hon. Daniel N. Lockwood, of this city, as counsel for all the defendants. These various attorneys, or as many of them as desired to, cross-examined Mr. Miller as long as they desired to concerning all these matters subsequent to the quashing of the first indictment, when they had had their attention called to the fact and had examined both indictments.

I am informed that the defendants in this case have since their indictment in Erie County sought to procure indictments against Albert A. Miller in Monroe County, N. Y., and failed in the attempt.

Whatever the defendants may now say regarding the character or veracity of A. A. Miller, he was for many years the confidential friend and associate of the Everests and spoken of in the highest terms by them. The evidence of H. B. Everest and also of A. A. Miller in conspiracy-case trial before Justice Barker shows that after engaging in this conspiracy that H. B. Everest and A. A. Miller dined and traveled and roomed together, and at Young's hotel in Boston they were registered by H. B. Everest as "H. B. Everest and friend."

CHARLES B. MATTHEWS

Sworn to before me this 4th of January, 1887.

WILLIAM MACOMBER,
Notary Public, Erie County.

Court of Oyer and Terminer of the County of Erie. The People of the State of New York vs. Hiram B. Everest, Charles M. Everest, John D. Archbold, Henry H. Rogers, and Ambrose M. McGregor.

SIR: Take notice that upon the affidavit of Charles M. Everest, a copy of which is herewith served upon you, and upon the indictment herein, I shall move at to be held in the city of Buffalo, on the day of , 18 , at the opening of the court, or as soon thereafter as counsel can be heard, for an order directing the district attorney of Erie County to furnish the said defendant, Charles M. Everest, with a copy of the minutes of the testimony taken before the grand jury upon which the indictment herein was found.

Further, you will take notice that I shall move at the same time that the said defendant, Charles M. Everest, be furnished by the said district attorney with a bill of particulars specifying as follows, to wit:

First. To whom the words "certain other persons, corporations, and firms in confederation with and controlled by them, to the grand jury unknown," at the beginning of the second paragraph of the indictment, refer, and to whom those word or words substantially the same used in various other parts of the indictment refer.

Second. The names and residences of the persons referred to in the following passage of the indictment, on the second page thereof: "And other persons to the grand jury unknown, from organizing and conducting the Buffalo Lubricating Oil Company, Limited, as a domestic corporation, which said last-mentioned persons did nevertheless organize," etc.

Third. The names and residences of the persons referred to in the following passage of the indictment, beginning at about the top of the fourth page thereof: "And other parties to the grand jury unknown, then stockholders, officers, or parties interested in the said Buffalo Lubricating Oil Company, Limited."

Fourth. The names and residences of the persons referred to in the following portion of the indictment, near the top of the fourth page of the same: "And other persons to the grand jury unknown, interested with them in said Buffalo Lubricating Oil Company, Limited."

Fifth. The names and residences of the persons referred to in the following part of the indictment, near the bottom of page 5 thereof, "and to wrongfully and unlawfully entice from the employ of said Buffalo Lubricating Oil Company, Limited, its skilled workmen."

Sixth. The names and residences of the persons referred to in the following part of the indictment, near the top of page 6 thereof, "and to bribe and hire Albert A. Miller and other skilled workmen then in the employ of the Buffalo Lubricating Oil Company, Limited, to so construct its works that said works would not answer the purposes for which they were intended."

Seventh. The names and residences of the persons referred to in the following part of the indictment, immediately below the part referred to in number 6, "to hire the said Albert A. Miller and other workmen then in the employ of the Buffalo Lubricating Oil Company, Limited, to so operate its works that the crude petroleum which it should undertake to refine and convert into lubricating oil would be converted into coke," etc.

Eighth. The names and residences of the persons referred to in that part of the indictment next following the part last above mentioned, reading as follows: "And to hire said Albert A. Miller and other workmen of the Buffalo Lubricating Oil Company, Limited."

Ninth. The names and residences of the persons referred to in the following part of the indictment, near the top of page 7 thereof, "and to wrongfully obtain through Albert A. Miller or any of its other employes the business secrets of said corporation, the Buffalo Lubricating Oil Company, Limited, for the purpose of using them in planning and wrongfully compassing its injury and destruction."

Tenth. The names and residences of the persons referred to in the following part of the indictment, near the top of page 8 thereof, "McGregor and other persons and firms to the grand jury unknown, did wrongfully and unlawfully commit the following overt acts as a part of the said conspiracy and pursuant thereto and in furtherance thereof, to effect and attain the objects and purposes of said conspiracy," etc.

Eleventh. The sum of money and the amount thereof mentioned in the following part of the indictment, near the end of page 8 thereof, "did wrongfully pay said Albert A. Miller large sums of money therefor, and did wrongfully agree to pay him other large sums of money therefor."

Twelfth. What were the secrets referred to in the following part of the indictment, about the middle of page 9 thereof, "did wrongfully and unlawfully hire said Albert A. Miller to wrongfully obtain from the Buffalo Lubricating Oil Company, Limited, its business secrets, and he did wrongfully deliver said secrets to them, and they did pay said Albert A. Miller large sums of money for doing said unlawful acts;" also specifying how large were the sums of money referred to in said passage.

Thirteenth. The names and residences of the persons referred to in the following part of the indictment, near the end of page 11 thereof, "did wrongfully induce and hire certain witnesses to falsely swear;" specifying also what said witnesses swore to; before whom; when; and where; and in which of the suits named in the indictment.

Fourteenth. The events referred to in that part of the indictment immediately following the part last above referred to, as follows: "That certain events had transpired, and that the Buffalo Lubricating Oil Company, Limited, had done certain acts in connection with said fire test;" and also specifying the acts referred in the passage above.

Fifteenth. Fully and in detail what reports, statements, purchasers, customers, and patrons are referred to; what place the word "elsewhere" refers to; to whom the word "witnesses" refers, and what are the certain matters mentioned, in the following part of the indictment, at the bottom of page 12 thereof, "and did falsely circulate reports and make statements to purchasers of lubricating oils and to customers and patrons of the Buffalo Lubricating Oil Company, Limited, in the State of Massachusetts, at Boston, Worcester, and elsewhere, to the effect last aforesaid, and did induce and hire witnesses to falsely testify in said action that certain matters were facts which were not facts;" specifying also what the witnesses swore to; where, when, and before whom.

Sixteenth. The names and residences of the persons and the matters and facts referred to in the following part of the indictment, about the middle of page 14 thereof, "who sought wrongfully to maintain said actions by inducing and hiring witnesses to falsely testify to certain matters as facts which they knew were not facts."

Seventeenth. The business secrets and the sums of money referred to in the following part of the indictment, near the top of page 15 thereof, "its business secrets and valuable information and did pay him large sums of money to deliver such business secrets and valuable information to them," etc.

Eighteenth. The business secrets and the sums of money referred to immediately below that part of the indictment last above referred to.

Nineteenth. The valuable knowledge referred to in that part of the indictment immediately following the part last above referred to.

Twentieth. The names and residences of the persons referred to in the following part of the indictment at the bottom of page 15 thereof, "wrongfully preventing persons from buying its products of the Buffalo Lubricating Oil Company, Limited, who otherwise would have done so, to the great injury," etc.

Twenty-first. The other acts referred to in the last paragraph of the indictment, said to have been "committed thereunder for the purpose of effecting and attaining its objects contrary to the statute," etc.

Twenty-second. And further, referring to the charges of subornation of perjury made in the indictment, I shall move at the same time for a bill of particulars specifying the names of the witnesses, where they testified, when they testified, and what they testified to.

Dated the day of , 18 .

T. G. OUTERIDGE,
Att'y for Charles M. Everest,
105 Powers' Block, Rochester, N. Y.

To the District Attorney of Erie County:

The said motion coming on to be heard before Mr. Justice Childs, was in all things denied. Thereafter, at a court of oyer and terminer, held at Buffalo, in and for the county of Erie, before Mr. Justice Haight, on the 2d day of May, 1887, the said indictment came on for trial.

Whereupon, and before the calling of a jury, the defendants, upon permission of the court for that purpose duly obtained, withdrew their former plea of not guilty and moved to set aside the said indictment upon the same grounds specified in the demurrers aforesaid, and also upon the ground of the vagueness and indefiniteness of the said indictment. The said motion was denied, and the defendants duly excepted.

The defendants thereupon moved for a bill of the particulars charged in the said indictment upon the same grounds and in the same particulars indicated in the notice of motion aforesaid. The said motion was denied and the defendants duly excepted.

Thereupon the defendants again pleaded not guilty to the said indictment.

Thereupon, a jury having been empaneled and sworn, the following proceedings were then and there had, to wit:

A map of the premises of the Buffalo Lubricating Oil Company, Limited, made February, 1885, was put in evidence, being first verified as correct, and was marked Exhibit A.

ALBERT A. MILLER testified on behalf of the people as follows:

I am forty-five years old; was married in 1865, and have a wife and daughter; I was born in Ohio, and at four or five years of age came to Clarkson, in Monroe County, with my father, and lived with him on a farm for three years; my parents then moved to Rochester, and I with them, and I used to assist my father in driving teams; then I worked at shoe-making, and in 1861 I enlisted in the Army, in the Thirteenth New York Regiment; I served then for three months and was discharged at the expiration of a subsequent term of years; I then re-enlisted in the Eighteenth New York Battery, and served a little less than one year, when we were discharged at the end of the war. When I came back from the war I kept a restaurant; that was the first business I went into.

I know Hiram B. Everest and Charles M. Everest, defendants. I have been introduced to the defendant John D. Archbold, I believe, and to the defendant Mr. Rogers, I believe. I went into the employ of the Everests at Rochester, and first worked at carpenter business connected with their oil manufactory in Rochester, and Vacuum Oil Company for a period; then I quit them and they hired me again; then I done the firing and running stills, and everything pertaining to that business; I got so I could run the stills; I had charge of the stills; I learned how to make the oil; they made it by what

they called the vacuum process; it made lubricating and illuminating oil from petroleum, kerosene, and various grades of lubricating oils.

Q. Tell the jury the process of its manufacture; how it is done.—A. The crude oil is put into their still; by their process it was put in what you call a vacuum still, and a tank-puller to create a vacuum; the method of evaporating was by superheated steam in the coil of pipes that passes through the still; this caused the vapors to rise, and evaporated it; the vapors went through cold water pipes and were there condensed into naphtha, gasoline, kerosene, and paraffine; they run it to a given gravity or fire test, and the product in the still was what they termed lubricating oil; the residuum, after they got off these gases, was used to manufacture lubricating oil; they made various grades from this oil; what remained in the still was thicker than kerosene, and heavy.

Q. After it was cooled, would it run by pouring?—A. Yes, sir, some of it; that is, at certain temperatures. It took me a year or so before I understood the process of making these oils; I finally understood it, and also the method of constructing the stills.

Q. Who else there at the Rochester company knew how to make oil?

(To this question the defendants objected as immaterial and irrelevant; the objection was overruled, and the defendants excepted.)

The witness answers: There was my brother, Truman Miller, and a man by the name of Patterson, and one named Gable.

I know Charles B. Matthews; I made his acquaintance in 1878 or 1880, I think, along there sometime, at Rochester; I believe I was introduced to him the first time by Mr. H. B. Everest; I would not be positive; I can't say whether at the works or at the office; I saw him around there, and understood he was in the employ of the Vacuum Company. I knew J. Scott Wilson; the first time, I think, perhaps, it might have been along about 1870 or 1877; he was not then in the employ of the Rochester company. The business of the Vacuum Company at Rochester was managed by H. B. Everest, his brother Horace Everest, at one time, and C. M. Everest; there was a change in its management, I think, in 1875, along there; I can not remember the year. I had a talk with H. B. Everest at their works about the change in the business.

Q. What did he say to you?

(The evidence of any declaration of H. B. Everest was objected to as against all the other defendants, and it was admitted solely as against said H. B. Everest.)

A. I told him I understood that the Standard Oil Company had purchased the Vacuum Oil Company; he asked me where I got my information; I told him from what I thought was a reliable source; he asked me who it was, and I think I told him from the man that I understood had made out the papers, Mr. Edwards, a gentleman by the name of Edwards; he told me it would not make any difference with me; I told him that if it was going to make any difference with my position I would like to know it; he says it would not; I says, "I suppose it will, then, go on just the same with me as it has heretofore;" he says, "Certain."

The Rochester works had, if I remember right, three vacuum stills, I believe, one of 45 or 55 barrels, one of 175 barrels, I think, and one 200 barrel, I think; I can not be positive as to the capacity; I think that was about it at this time; I believe the 200-barrel still took about twenty or twenty-four hours to charge the still and get it out again, or to recharge; the other one, I think, it took sixteen or twenty, I am not positive; the 45-barrel still depended on what product they wished to get; the average per day would be about one batch; if they wished to make a light grade of lubricating oil, it takes perhaps four hours; if they manufacture a heavy grade, it would take twenty-four hours; I left the Rochester company in 1881.

Q. In the year 1880 do you know what the extent of their manufacture was there of oil, about; the whole business, as near as you can approximate it? A. The total capacity, I guess, would be, perhaps—

(The defendants objected to the evidence as immaterial, and as a mere guess; the court overruled the objection, and the defendants excepted.)

The Witness: About a thousand barrels; I think their capacity for manufacturing oil about a thousand barrels a day at this time.

Q. That is, the crude petroleum that you would use? A. If they were to manufacture crude petroleum entirely—make it into kerosene, taking a hundred barrels of crude petroleum, I think I could come up nigh to the proportionate result of the manufacture in the vacuum process; there would be about 20 per cent. of naphtha (that depends on what kind of crude, but taking the kind of crude that we were getting there usually), from 15 to 20 per cent.; about 55 per cent., as high as I can remember, of that crude of kerosene; I can not say positive as to the amount; the residuum would depend on the product which they were running for; they made products from 25 or 26 gravity, I believe, 27, 28, 29, 30, 32; taking the specific gravity of 30, there would be remaining in the residuum, I think, about 18 per cent., from 18 to 25, I don't remember; this residuum is not afterwards treated or purified; it is

compounded, sometimes, with other oils; they use the naphtha for various purposes; for burning purposes, gasoline stoves, manufacture of gas, manufacture of varnish, kerosene for illuminating purposes; the remainder, the lubricating oil, was used through the country for lubricating, cylinder oils; used on railroads, used for general lubricating purposes for heavy machinery; we used it for our own machinery there; in 1880 I knew that the Rochester company furnished some railroads, Western railroads; I don't know as I knew where they disposed of their illuminating oil.

In 1880, I was living in Rochester with my family; I think I saw John D. Archbold at the Vacuum Oil Works, in Rochester, about 1875; it might have been before that, or a little after; I can not say as to the year; was living near the Vacuum Oil Works, in their house, on the west side of the river; there was a time I was there that H. B. Everest was not around the works; I understood that he was in Colorado; it seems to me two or three years before I left; I think he had been west and came back before he told me that the Standard Oil Company had bought him out.

When I first worked for the Vacuum Company I got \$2 a day, at carpenter work; that was increased from time to time; when I commenced running the stills, getting so that I could run them, we worked by the hour; they paid me, I believe, 25 cents an hour; at the end of the year it would net me at that time from \$800 to \$1,000; at the time I left I was working by the hour, I believe that would net me, for my entire salary about \$1,400 a year—from \$1,200 to \$1,400; part of that in the rent of a house that they gave me; I had no written contract of employment, there was no arrangement, as I understood it, that I was to stay any particular length of time; I understood Mr. Everest that I could stay as long as I wanted to; there was no contract that I should stay one year, or two, or five years.

I think the first talk that I ever had about leaving the Vacuum Oil Company was in 1881, might have been in 1880; I came to Buffalo, I think, in March, 1881; my first talk in regard to coming to Buffalo was with J. Scott Wilson, a man who had been in the employ of the Vacuum Company as salesman, I believe; I talked also with Charles B. Matthews, this gentleman here; he at that time was connected some way with the Rochester Company, as I understood; Matthews, Wilson, and I finally made up our minds to come to Buffalo for the manufacture of illuminating and lubricating oils; I had a talk with C. M. Everest about coming here; H. B. was at that time in Colorado, I believe; the first conversation with C. M. was in his down-town office in the Rochester Savings Bank building.

(Upon the defendants' objection, the court ruled that the declarations of Charles M. Everest were received only as against him, and that where the declaration of any defendant was received in evidence, it was received against such defendant alone.)

The witness proceeded: I went into the office to tell him that I was going to Buffalo with these parties; I think it was in March, it might have been in February; it was some time before I went; I told him that I had come in to notify him that I was going to leave the company and go to Buffalo with some parties that were going to build a works; he says, "That is news to me; I am sorry for that;" he asked with whom I was going; I told him I was going with Mr. Wilson and Mr. Matthews; he said he was sorry to hear any such news as that; I don't remember what was said, and Mr. Matthews came in; he spoke to Mr. Everest and told him that he was going to leave; Mr. Everest says, "I am sorry to hear of any such thing as that; I have got a violent headache this morning, and I guess that is going to be a remedy for it;" something like that; "Gentlemen," he says, "I respect you;" he asked us what the name of the company was going to be, I believe; I told him the Buffalo Lubricating Oil Company; he says, "As gentlemen, I respect you, but as to the Buffalo Lubricating Oil Company I shall do all in my power to injure them and ruin them—I would not say the word was "ruin," but "do all in my power against them;" I don't remember the exact words; Matthews was present at the time; I think I said, or Mr. Matthews, that we didn't expect any favors from them.

Q. What else, if anything?—A. There was considerable talk there, but I do not remember exactly; I think he said he would like me to see his father; I do not know whether I went out first, or Mr. Matthews; during that conversation Mr. Everest asked me, I believe, how we expected to get oil, and I think Mr. Matthews or myself told him that we expected to get it from the Atlas Oil Refining Company; I think he said, "That all may be," or something, I do not remember the exact words, but he said, "You will wake up some morning and find there won't be any Atlas Refining Company," I can not say the exact words; I do not think he said at that time what was going to become of it; I think he used that expression, or words similar to that; I do not exactly remember the words.

Q. You may state whether or not, in that conversation, C. M. said anything about having ways of making money that you knew nothing about?—A. If I remember right, I think he said that the Standard Oil Company had various ways of making money that

we did not know anything about; that is in substance what occurred there during Mr. Matthews's presence. I think I talked with C. M. directly after Mr. Matthews went out; I think he told me not to be too fast in this matter; he says, "I would like to have you promise me that you won't go with these parties till we hear from father;" he says, "I will write father, and I will explain the matter to him, and I would like to have you wait till you hear from father before you leave us;" if I remember right, at that time Mr. Matthews and Wilson had been to Buffalo; I think I went with them myself; I would not be positive as to that; if I remember right, I went out and looked at some land that they had spoken about buying; also went to see some parties whom they were negotiating with for it, Ottos I believe; I think this was before the conversation; I did not see him write the letter to his father; he said, "I will write to father; I would like to have you wait before you go any further with this till we hear from him;" I says, "I have entered in with these men, and have made arrangements to go in with them, and I do not see how I can wait;" I think this was directly after Mr. Matthews went out; it may have been after, I am not positive as to that; he said, "I will write to father, and I would like to have you come in and see me and hear what he has to say;" I told him I would; I think that is all that occurred at that time, I do not remember; I hadn't quit work at that time, I believe; I did quit that day; I do not think I worked for them any more after that conversation. Mr. Everest at this time—I forgot that—asked me who was a good man and capable of taking charge of the refinery, who I thought would be the man to put there; if I remember right, I says, "My brother, or Mr. Patterson is a good man;" I thought they were capable of doing it; I don't think I had any settlement till later on, perhaps six or eight or ten days later; I think I saw C. M. Everest in the course of a week or so at the works; I lived right adjoining the works; I was there, near my house, and went into the works and he was there; he asked me how I was getting along; I told him first rate; I don't remember anything else at that time; I think he said he had not heard from his father, I would not be positive that he did or did not.

I saw him again, perhaps two weeks after, perhaps a month, I can not say; he sent word for me to come there; I went to the office and he read the letter to me.

Prior to the conversation with C. M. Everest about writing to his father, I believe that papers had been executed between Mr. Matthews, Wilson, and myself in regard to the Buffalo business; I had several conversations with Charles, between the one that I have spoken about, and the return of H. B. There was one in regard to this letter which H. B. wrote to him, the letter from his father which he produced and read, the sum and substance of which was it went on to state the advantages and disadvantages of being in the oil business; as I understood it, Mr. Everest was trying to illustrate to me that there was no money in the oil business, it all seemed to bear on that one point, that going into oil business with an institution of that kind I would not make any money, and there was not any money in oil at that time outside; he read a letter showing me the prices, I think, that they got, and what it cost; I would not be positive as to that; it was on that one point, that there was no money in oil by going into the manufacturing of it; C. M. read the letter to me; I would not be positive but he handed me the letter to be looked at; I can't say; I did not take it away with me, and have never seen it since; I believe it was left there with C. M. Everest; then C. M. went on to explain his theory of what we could do and what we could not do; he said he thought it was the best thing I could do under the circumstances to stay with them; he says to me, "Now, see here, we have always used you well, and we want you to stay with us, and we do not want you to go out with these men;" I am not positive that it was this time or previous to this time that he said to me, "Don't you think, Miller, that it would be better for you to leave those men and have \$20,000 deposited to your wife's credit, than to go with these parties?" I said, "Mr. Everest, I don't think it would; I went out with these men in good faith, and we had made considerable many purchases, and we have got stills ordered and different things ordered, and I don't think it would pay me to go out with these parties—to go back on them; I went out with them in good faith and I propose to stay." Then he goes on and tells me that it will be only a matter of a few days with the Buffalo institution at the furthest; they would crush them out, "and the result of it is you will lose what little you have got." I told him I could not see it that way; that they had prospered and made money and I thought there was a chance for others to do the same; there was considerable further, but I can't remember it all; I told him that we had made some purchases and that I proposed to stay there; I think I told him that we had contracted for our stills and boiler and different machinery, pumping, pipes; I don't particularly recollect anything further at that time.

The next that occurred between myself and any of the Everests, I saw C. M. at his office or his house; this was in the month of June, perhaps two months after the conversation I have just related; I think it was before H. B. had come back; he told me he thought the best thing I could do would be to come back to their company with them.

I had then been at Buffalo perhaps three or four times; in the meantime we had bought stills—contracted for the stills—boiler, pumps, and pipes, and fittings of all kinds; Mr. Matthews and I made most of those contracts; we bought mostly at Erie, some things in Titusville, Buffalo, and Tidioute; this conversation was, he says, "You better come back with us;" he says, "You better leave that company and come back with us;" he says, "They won't last no time;" he says, "The best thing you can do is to come back with us;" I had told him previous to this time that there was a sort of a contract with Mr. Matthews, Wilson, and myself, and that I could not very well get out of it; I told him that I had entered into a contract with Mr. Matthews and Wilson; that they were going to form a stock company; he wanted to know what interest I was going to have, and I told him I was going to have a good salary—I don't know as I told him how much; I don't think I knew what I was going to get at that time—and ten or twenty thousand dollars' worth of stock; I can't think of any more of that conversation at present. Oh, in this conversation I think he mentioned that his father was going to return in a short time and he would like to have me see him; I don't remember now as I had any further conversation with Charley between that time and the return of H. B.; I may have had.

I think it was in the last of May that I learned of the return of H. B. Everest; if I remember right, it was by a letter from my daughter, who was in Rochester, to her mother; shortly after that I saw H. B. Everest at Rochester, by request of C. M., who had said that his father would like to see me when he got home; I received no other communication up to that time; I went to Rochester and found H. B. at his son's house on West avenue; I don't think I saw C. M. before I went to the house; it was in the evening; I saw H. B. and C. M. Everest there; I rang the bell and went in; I think that C. M. came to the door, I would not be positive, and asked me to come in; he told me to sit down and wait a few moments and his father would be out; and I did so, and Mr. Everest came out and we shook hands, and he says, "I think you have made a grand mistake by going out with these fellows, and the best thing you can do is to come back with us;" I told him I did not know whether it was or not; he says, "I think it is;" I can't remember all that was said there, but he went on to tell me that the company would not last long, and that of course they would do their—use their best endeavors to not have it succeed, or words to that effect; I can't exactly remember the exact words; he says, "You come back with us and you will be all right; leave the company;" I says, "They would be in pretty bad shape to leave now; they have got everything going, and there is not anybody there that can go on and do it, as I know of, construct the works, and it would leave them in pretty bad fix;" he says, "That is just exactly what I want to do;" we talked considerable, had quite a long talk, and I told him that I had to go home that night, and he wanted to know what I wanted to go home for; I was living in Buffalo; he asked how we were getting along with the works in Buffalo, how far along we had got; I told him how far we had got, that we had got the stills on the ground and had constructed them, and built the buildings and building fences, putting up tanks, just as we were doing; he says, "It is only a matter of a few days with that company;" and he says, "The result will be, if you stay with them, you will lose all you have got in it;" he says, "If you return with us, everything will be all right; if you come back and work with us everything will be all right, and we will make everything all satisfactory to you; I told him that we had entered into—that we had then, I believe, formed a stock company, and that I was one of the officers in the company, and, of course, if I left it, why I would be held responsible; they would hold me responsible; "Well," he says, "we will look out for that;" I think I told him at that time that I was engaged for a year, hired for a year at a salary, and told him the salary I was getting, that I was getting \$1,200; now, I may be mistaken about this time; I had a number of conversations with Everest; it is hard for me to distinguish; I can't remember whether this is the time I told him about the salary, I can't remember as to that; I don't think that Charles was there present during this conversation; I am satisfied that he was not; I think at that conversation he said that they were going to commence suits against them, and that they would sue them, not only sue them, but serve an injunction on them, stop their work, and I being the only man that had any money, that J. Scott Wilson did not have any money, and that Matthews, if he did have any, would take care of it, so that if there was any damages to pay that I would have to pay the whole of it; he says, "The result of it is that when these suits commence, if you are in it you will be responsible, and you have got a little money, and you will lose it all;" I can't state the exact amount of property I had at that time; I had then one piece of property in Rochester with six lots in it, another with three lots, and a couple of houses and lots—that is, one of them belonging to my wife; I had two houses and lots, one of them was hers and one was mine; I had quite a little amount in bonds and mortgages; I think the property without the bonds and mortgages would have been worth at that time \$4,000; I can't say exactly what the mortgages were worth, seventeen or eighteen hundred dollars, I think; I should judge about \$6,000 altogether, or perhaps a little more; I believe H. B. and C. M. Everest had reason to know that I had some property there; I

told him, H. B. Everest; at the time I bought some property C. M. Everest signed a couple of notes for me, indorsed them.

At this first conversation after H. B. returned I don't think I was at Everest's house over an hour and a half; I returned to Buffalo that night, to my home, 766 Elk street, I believe, out towards the works.

Q. Anything stated at this conversation about your coming back?—A. Yes, sir.

Q. What was it?—A. He advised me to come back, and he says, "I think you had better come."

Q. I mean about your coming down to see him again?—A. Oh, yes, sir.

At this conversation I think I told him that I would go home and have a talk with my wife about what to do, and kind of see how I can fix it to come back; I think he asked me, "What do you mean by fixing it?" I says, "If I come back I will have to get my property out of my hands;" and he says—I can not say whether it was at this time, the first time, that this conversation took place, or the second time. I can not swear positively as to that—and I think he told me that I had better go and see Mr. Truesdale. I think that was the first conversation, but I can not be positive as to it. The way he came to mention Truesdale was, he asked me who was my lawyer when this subject was brought up about the property, and I told him Mr. Truesdale.

Q. Was Mr. Truesdale your lawyer?—A. Yes, sir.

Q. Had you employed him?—A. Yes, sir—that is, he done all the business that I ever had to do.

I came back to Buffalo and consulted with my wife. Mr. Everest says, "You come down again, and in the mean time I will see what can be done about it, and you see, too." I told him I would come. I came again within ten or fifteen days after this first, I should judge, if I remember right. I think I went to the house and saw C. M.; if I remember right, I do not think Mr. H. B. Everest was there; I asked C. M. where his father was, if I remember right about it; I don't remember whether this is—I think he said he was away somewhere, and would be home—I think it was at the office I saw C. M., I can not say positively as to that; that his father was away somewhere, and would be home that evening; I can not say whether this was—I saw H. B. Everest before I went back; I think it was at his house; he says, "Have you seen Truesdale?" I says, "No, sir." "Well," he says, "we better go and see him." I says, "When will you go?" He says, "We will go to-morrow." I think C. M. said that perhaps we better go over there to-night. I won't be positive as to this this time. I think that C. M. and I went over there that night; if it was not that night, it was before that, to Truesdale's house. Mr. Truesdale was not at home. Mr. H. B. Everest said we would go and see Truesdale at his office. I went to see Truesdale, I think it was the second time I saw Mr. Everest; I think that Mr. H. B. Everest went with me; I won't be positive that he went. I saw both Everests at Truesdale's office; I think I introduced them to Mr. Truesdale. H. B. Everest spoke up and said that we had come—to Mr. Truesdale—and says, "We have come to see what disposition can be made of Al.'s property;" that is the name he called me by. I think Mr. Truesdale asked me what I meant by it, and I told him I thought some of coming back to the Vacuum Oil Company, and he wanted to know why. I told him the reason, what they had told me, that they were going to bust that company up, and if I did not come back with them what property and money I had would be taken away from me; and Mr. Everest spoke up and asked Mr. Truesdale if there was not some way he could dispose of his property. Mr. Truesdale said that he did not see any way that it could be done unless it was a bona fide sale. Mr. Everest said they could dispose of the mortgages, and he either told me there or before that that he could take the money and invest it so that it would pay me 10 per cent. on the investment, and they could not get hold of it; I think Mr. Truesdale, or myself, I am not positive which, asked the question, what means I could take to get out of the company. H. B. says, "There is a good many ways he could get out;" either Mr. Truesdale or myself asked him how. "Well," he says, "he can cut up something, or do something to injure them; something of that kind" to get out; H. B. said this; Mr. Truesdale spoke up and said, "You must be very careful what you do, or you will lay yourself criminally liable; Mr. Everest says to me, 'There is ways that you can get out;'" I says to him, "You wouldn't want me to do anything, would you, to lay myself liable?" I think Mr. Truesdale spoke up and says, "You must be very careful or you will end in State's prison"—that is, I; there was a considerable conversation, I can not just exactly remember; I have told all I recollect at present; Mr. Truesdale asked me if I had a contract with the Buffalo parties; I told him I had; "Well," says he, "the best thing you can do is to stay there, then," or something of that kind, I can not say that those are his exact words; H. B. Everest says, "If he comes back with us, why we will look after him;" I think Mr. Truesdale said that these men would be after me for leaving them; I think I told him the terms of the contract.

Q. Was there anything said there; if so, what, by H. B., that they would have to catch you first, to find you first?

The WITNESS. Mr. Everest said, "They will have to catch Miller before they can do anything to him; we will take care of him."

Q. Tell the whole about that.—A. Well, I don't remember anything further about it.

Q. How did it grow up that H. B. said, "They will have to find Miller first?"—A. Oh, he wanted me to leave them; I asked Truesdale what would be the consequences; he said I would lay myself liable to these parties by leaving them; and then Mr. Everest made the remark that they would have to catch him before they could do anything.

Q. Can you tell us, as near as you can recollect, what H. B. Everest said to Truesdale about something might happen to these works?—A. I cannot remember anything further at present; I believe my wife was there the first time; I think I went twice with H. B. Everest; the second time I went to see about the same matter, how I could dispose of my property; I asked Mr. Truesdale how I could manage to get rid of it so that I could save it; he told me that I would have to sell the mortgages and sell the property; I think C. M. was there this time; Mr. C. M. Everest said I had better give Mr. Truesdale the power of attorney to dispose of this property, and I done so; Mr. C. M. Everest gave my wife a list of real-estate dealers, and told her she had better go and see them, see if they could not dispose of it for her, get it into money; at this second interview, I believe it was H. B. Everest or C. M.—I can not be positive which it was at this conversation; I think it was H. B.—says to Truesdale, "If you want to communicate with Miller you can do so through C. M.;" I think I executed papers there at Truesdale's office; I can not say whether my wife did, too.

[Witness is shown a paper.]

This was executed there in Truesdale's office; I know George H. Humphrey, that took the acknowledgment; I believe Mr. Humphrey was in the office at the time; I can not say positively. This paper, as I recollect, was executed on the second occasion; this paper was executed by me and my wife.

[Witness is shown another paper, dated June 27, 1881.]

This was executed by me at Rochester; I think it was drawn up by Mr. Truesdale.

Both papers were offered and received in evidence as Exhibits "B" and "C."

EXHIBIT B.

Know all men by these presents, that we, Albert A. Miller and Mary Miller, his wife, of the city of Buffalo, N. Y., have made, constituted, and appointed, and by these presents do make, constitute, and appoint George Truesdale, of Rochester, N. Y., our true and lawful attorney for us, and in our names, place, and stead, to enter into and take possession of all such lands, tenements, hereditaments, and real estate whatever in the city of Rochester and State of New York, to or in which we are, or either of us is or may be in any way entitled or interested, and to grant, bargain, and sell the same or any part or parcel thereof for such sum or price and on such terms as to him shall seem meet, and for us, and each of us, and in each of our names, to make, execute, acknowledge, and deliver good and sufficient deeds and conveyances thereof, either with or without covenants and warranty; also to sell, assign, and convey all bonds and mortgages belonging to us or either of us, and to execute proper assignments thereof in writing in our and each of our names, giving and granting unto our said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as we might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that our said attorney or his substitute shall lawfully do or cause to be done by virtue thereof.

In witness whereof we have hereunto set our hands and seals the 23d day of June, 1881.

Sealed and delivered in presence of

ALBERT A. MILLER. [L. S.]
MARY MILLER. [L. S.]

UNITED STATES OF AMERICA,

State of New York, County of Monroe, ss:

Be it known, that on the 23d day of June, 1881, before me personally appeared Albert A. Miller and Mary Miller, his wife, above named, who are to me known to be the persons described in and who executed the above letter of attorney, and severally acknowledged the same to be their free act and deed.

In testimony whereof I have hereunto subscribed my name the day and year last above written.

GEO. H. HUMPHREY,
Notary Public.

(Indorsed): Power of attorney, A. A. Miller and wife to George Truesdale.

MONROE COUNTY, ss:

Recorded June 24, 1881, at 12 m., in liber 344 of deeds, at page 152 and exd.
E. A. FROST,
Clerk.

EXHIBIT C.

Know all men by these presents, that I, Albert A. Miller, of the city of Buffalo, N. Y., have made, constituted, and appointed, and by these presents do make, constitute, and appoint George Truesdale, of the city of Rochester, N. Y., my true and lawful attorney, and for me, and in my name, place, and stead, to bargain, sell, convey, and assign any and all bonds and mortgages which I now own and hold, and all bonds and mortgages which may be hereafter owned and held by me, for the purchase price of or upon lands in said city of Rochester, and to demand, sue for, collect, and receive payment of all sums of money due or to become due upon any and all of such bonds and mortgages, and to make and execute, under seal or otherwise, all assignments, discharges, and receipts in writing necessary or proper for those purposes, giving and granting unto my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said attorney or his substitute shall lawfully do or cause to be done by virtue thereof.

In witness whereof I have hereunto set my hand and seal the 27th day of June, 1881.

Sealed and delivered.

ALBERT A. MILLER. [L. s.]

In presence of

Words "or upon" interlined in above, before execution, by me.

ALBERT A. MILLER.

UNITED STATES OF AMERICA,
STATE OF NEW YORK,
County of Monroe, City of Rochester, ss:

Be it known that on the 27th day of June, 1881, before me, personally appeared Albert A. Miller, above named, who is to me known to be the person described in and who executed the above letter of attorney, and who acknowledged the same to be his free act and deed.

In testimony whereof I have hereunto subscribed my name the day and year last above written.

JOHN A. BEERNHARD,
Commissioner of Deeds.

(Indorsed:) Power of attorney. Albert A. Miller to George Truesdale.

MONROE COUNTY:

Recorded on the 29th day of June, 1881, in liber 6 of miscellaneous records, at page 354 and ex.

E. A. FROST,
Clerk.

I think that meeting in Truesdale's office is the last time I saw H. B. Everest till I saw him on the cars at Rochester. I think I saw him four or five times in Rochester before going away from the Buffalo company. I think it was twice I saw him at C. M.'s house, once at Truesdale's office, and saw him on the cars. I might have seen him different times, but those are the only times I recollect of. I saw him at Rochester in a sleeping-car, which he was taking for New York, about the 28th of June, I think. I would not say it was the 28th; I can not say as to the date. He says, "I am going to New York," and he says, "If you hear from me, will you come to New York?"

I says, "I do not know." "Well," he says, "I am going to New York, and I expect to telegraph to Charley, and he will telegraph to you; and if he does, will you come to New York?" I think I told him I would. He says, "Mr. Matthews has done wrong," and he says, "There is a time coming when he will get his pay for it." I don't remember anything more at that time.

By the COURT: Was there any other conversation that you have not spoken of, and in which you had a talk with either of these Everests?

A. Yes, sir; it was on or about the 23d of June, or before that, I can not say as to the date. C. M. Everest and me had a talk about the Buffalo works, at his office, I think, the 23d of June, or before that. He says, "You go back to Buffalo and construct the pipes so that they can not make a good oil, and then," he says, "I think if you would give them a little scare, you might scare them a little, they not knowing anything about the business, and you know how to do it."

Q. (By the DISTRICT ATTORNEY:) Won't you repeat those words?—A. "You could go back to Buffalo, and construct the pipes and stills so that they can not make good oil, and if you would give them a little scare, I think you can scare them," or words to that effect. I can not exactly remember word for word; I can not remember anything further said at that time. I told him, as I told his father before, that I did not propose to do anything to make myself criminally liable; I told H. B. Everest so in Truesdale's office. I had a talk with H. B. Everest at the house before going to Truesdale's office; I do not think there was anything said at his house about the pipes. There was one thing that was said, that comes to my mind now, I think that was said there; he says, this was the second time, I think, that I saw Mr. Everest, or the first time; I think this was at the house, I would not be positive whether it was the first or second, he said, "Miller, if you had let me or let us know that you were going out with that company, we would have fixed things with you so that everything would have been satisfactory to you, and we would have let you go on and do just as you have done; we would have got those fellows into a boat, and got them into the middle of the stream, and we would have just tipped the boat over and drowned them two, and you would have been all right." There was nothing said about the pipes with H. B., only what was said at Truesdale's office, that I remember. Along the last of June, C. M. Everest said to me, at his office, at Rochester, "We will fix it before you leave to have a man go up there with you." He says, "Who will be a good man?" I told him I did not know who would be a good man. I says, "There is a number of men that would perhaps be good men." I mentioned over some names. "Well," he says, "we had better take Bristow," or Bristol, I do not know which. He says, "You are going back to-night, and I will fix it with Bristow so that you can accidentally meet on the train; you need not let him know, or he probably won't let you know, that he is going up to see those works, how they are constructed, and you show him how they are constructed and all there is to it, the methods of making the oil." He says, "You leave it to me, and you will meet at the depot, and then you will go together." I think that was about all that was said; for us to see the stills, and the way the stills were constructed, and the method of making oil, find out what we had done, how much we had got constructed, and how we manufactured the oil, and process, and what method, and how we applied the system, and the way the works were constructed in general. I took the train, or I was in the depot, I would not be certain which, where I first saw Bristow. I shook hands with him, and asked him where he was going, and he said he was going off for a few days' vacation. There was not anything more said about it, and he got on the cars. I asked him how business was at the works; he came to Buffalo with me, and went through the Buffalo works; I made tests of oil in his presence; I could not say how long he was here, as I went away the next day; we went out to the works in the morning, I think it was about 8 o'clock; I think he staid until noon, I wouldn't be positive as to that; went out in the afternoon, perhaps was around there, may be, six hours, or longer.

After I had this conversation with C. M. that I last related the Buffalo works had one still completed and had been run previous to this. We made a run of oil.

Q. Describe that to the jury—describe the first run. What transpired—not on the occasion when Bristow was there, but the first run they made?

(To this the defendants objected as immaterial and irrelevant.)

By the COURT: When was this first run of oil made?—A. Along in June; the middle of June somewhere. I do not remember the date.

(The objection already made to the question unanswered was renewed by the defendants. It was overruled, and the defendants excepted.)

A. I think there was 175 barrels put in the still; I am not positive as to the amount—well, 200. The still was fired up as they usually are for making oil, and when it was finished there was such a heat that was under it that the safety-valve blew up; that is, it blew out of the safety-valve—the vapors—and the batch, as we call it, was spoiled.

Q. How?—A. Burned, or charred, as they called it. The kerosene was run in; the distillate, as we called it, was all run together—naphtha, kerosene, and paraffine. The

residuum which was left in the still was a sort of tarry substance; it was no good for lubricating oil—not so considered. I say the batch was spoiled.

Q. Had the safety-valve been tied down in any way—weighted?—A. No, sir; it was not tied down or weighted down; the fires that were built under the still were pretty heavy fires.

Q. Did you notice what the effect was? The still was walled in?—A. I do not remember as to that.

Q. Where were you about this time? After the fire where did you go?—A. I was in the Atlas refinery, or the Solar, I do not know which works. The Solar was right adjoining these works; I could not say how many feet I was from this still; probably 200 to 500, or perhaps more; I do not remember particularly. I can not remember the name of the man who was firing there; I am familiar with it. Mr. Matthews did not, to my knowledge, know anything about my going from Buffalo to Rochester at these times.

Q. Before this first run of oil you may state whether or not you had had this conversation with C. M. Everest about coming back to Buffalo and giving them a scare.—A. Well, it was before; the conversation that we had about the scare was before there was any oil run; I am a little mixed on the dates, because I can't remember; there was so much of it that I can't remember. After this I received a telegram, and after receiving it went to New York. I met H. B. Everest at the Union Square Hotel; I believe that is the name. I think it was about 12 o'clock that I got to the hotel. I went in and shook hands with Mr. Everest, and I think he asked me if I had been to dinner. He says: "I was up to the depot; the train was late, and I came back to the hotel. Says he, "You better have some dinner." I don't remember whether I had any or not. I think he had a lunch, and don't know but I did. He says, "What do you say to going down to Boston?" I says, "I don't want to go to Boston." "Oh," he says, "you better go down with me. Go down on to-night's boat and have a good time." He says, "It is a nice trip; go down and stay awhile," and I think I said I wanted to go back; come there to hear what arrangement he would make. "Well," he says, "you come down to Boston and we will fix things all right when we get there. This was after he had lunch. In the mean time there was a gentleman came in to see him, if I remember right, and he introduced me to him. I think the gentleman's name was Rogers. There is one man I see here that looks like him. I think his name was Rogers; that is the name he introduced him to me,

Defendants' counsel, pointing to the defendant, Rogers: Is that the man?

A. Yes, sir; that looks like the gentleman; he looks like the man, but not as that man did then; that man seemed to have a lighter moustache; after the introduction I think this gentleman bade us good day, and I think he says: "I will see you again if you do not go to Boston," or words to that effect; I don't exactly remember the exact words; I couldn't say whether this was addressed to me or to Everest; I think he said, "Gentlemen, I will see you again if you do not go to Boston;" after this gentleman went away Mr. Everest says to me, "The best thing you can do is to go and write a telegram and tell your wife to go back to Rochester;" I don't think I had had a talk about my wife before that; there might have been something said about the family or something; I says, "You better write it; I am a poor writer." "No," he says, "I do not want to appear in this case at all;" he says, "We will go up in the room and you write the telegram." We went up into the room and I went to write the telegram, and I says, "Mr. Matthews will serve an injunction on our things or something—won't let her move, when he finds out that I have left them in that kind of a way; there may be some way he can hold our things there." "Well," he says, "you write the telegram; we will have your brother go up there and help her;" and I sat down and wrote the telegram. "Write it so that she can move the 4th of July, and they can't attach her things," or your things, whatever it was; after I had written it I handed it to him and he says: "You pay for that," and I paid for it; I said, "I have some mistakes in this telegram; I have made some 'n's; ought to be 'm's,'" I says, "You better write it;" he says, "I don't want to appear in the matter," or words to that effect; he took the pencil up; I delivered the message to a man in the telegraph office and paid for it; Mr. Everest was standing at my left, a few feet from me, if I remember right; it was the office at the hotel.

I remained there perhaps two hours before I went anywhere with him; he says, I better go down to Boston; I told him I did not want to go to Boston; I says: "We can just as well have the understanding here." "O," he says, "you better come to Boston;" he says, "We will go down on the boat to-night—5 o'clock boat, a nice trip, and we can fix everything all satisfactory there." I finally consented to go, and we went; I think he asked me how they were getting along in Buffalo—what shape I left them in; aside from the telegram, most of the time we talked it was about the Buffalo business; we went to the boat together; Mr. Everest bought the tickets; I think it was the Fall River line we took, I believe some time before 5 o'clock; we had the same state-room;

we got to Boston the next morning some time, I can't remember the exact time; I think it was Young's Hotel we went to; H. B. registered; we had a room together, with two beds; after registering, we had breakfast and went to church together, at Tremont Temple; I think it was; went back and had lunch; we took a boat and went down to Nantasket Beach; I think it was on the boat or at the hotel he says, "Now, I have registered you as 'friend,' and you don't want to be known here, and I will introduce you to Reynolds, or whoever I introduce you to, by the name of Milner." I says, "It does not make any difference what name you introduce me by, I suppose I have no interest one way or the other;" that is the name that I was known by while I was there.

We came back to the hotel after going to Nantasket Beach, and the next day he went to look at some carriages, and went down to the office; he says, "Now we will go down there;" I think before this we met Reynolds, the Vacuum Oil Company's agent in Boston; the company has an office and store-house there in charge of Reynolds; he says, "We will go down to the office, and that will be a nice place for you to stay; I want you to stay here in Boston and not go back; you can stay here and have a good time;" I done so, staid at the hotel a few days, or longer, I can not remember exactly as to that; Everest staid there, I think, three days, I would not be positive; the second day, I believe it was, I says, "I guess we better have an understanding now about what you are going to do with me." "Well," he says, "I tell you what I am going to do with you; I want you to stay with us, leave that company, not go back to them, and we will use you well; we will pay you \$1,450," or something along there, I forget the exact amount; he said, "You won't have much to do, and you can stay here in Boston, and keep away from those fellows, and we will protect you." Says I, "Who's going to make up if those fellows come on and sue me for damage?" I says, "Who is going to make this up? Who will make up this loss that I have been going to by sacrificing my property?" He says, "Leave that to me, I will fix that all right; you just do as I tell you and you will come out all right." The offer he made was a little less than \$1,500. I says, "Mr. Everest, you had better make that \$1,500, make it an even money;" he says, "All right;" I says, "Of course; I want this understood, that I am not to go into any hard work; I will do most anything except shovel coal;" I says, "I don't propose to do that." "Well," he says, "you won't be asked to do that;" he says, "You stay here till we get ready for you, and we will fix things for you." He drew up a sort of a contract, and also wrote a letter; I forget the substance of the contract; don't remember the wording of it; I believe I signed it; I be eve he did; I think I asked him for a copy of it; I wouldn't be certain as to that. He says, "That will be right, you will get one all right." I never saw the contract after, to my knowledge; he also wrote a letter which I read, or he read to me, I can not be certain which; I saw him do nothing with it except put it in his pocket.

(Upon the defendants' objection, the court admitted testimony as to the contents of this letter only as against the defendant, H. B. Everest.)

The witness proceeded: It was headed, C. M. Everest, Rochester, N. Y.; I have made arrangements; tell Mrs. Miller, or show this letter to Mrs. Miller; I can not word it; I have made arrangements with Al. that we are to pay him \$1,500 a year; read this letter to Mrs. Miller; if she wants to communicate with him, or something like that; I can not remember the words to it, but it was to that effect; I think it was in that letter, I am not positive, to communicate with him through C. M.; I can not remember the exact wording of it—that everything was all right with me, that he had made everything all satisfactory with me, and to let my wife know it. He took me to the store, and introduced me there.

Q. What conversation did Everest have with the agent there in Boston, in your presence?—A. At the store I think he says, "I brought Mr. Miller down here to stay with you for a while, and as he is a stranger here, you kind of make it pleasant for him, and he will stay here with you for some time, perhaps;" I can not give his exact words.

I continued to keep the room in the hotel until he went away. I told him I guessed I would change my location and get another place to stay, and he says, "All right, go wherever you like, stop wherever you like, and we will pay all your expenses while you are here." I went to a place on Beach street, I believe.

While in Boston, I used to walk down to the store—the office, rather—and stay there when Reynolds was out; go where I was a mind to when he was there; used to go around the town, stop down at Nantasket Beach and South Point, and them places; I believe I helped to store some oil once; that took a couple of hours, perhaps longer; Mr. Everest said, "If you want any money, Mr. Reynolds will give you what money you want; ask him and he will give it to you." I think I drew \$50; I can not say; I drew some money, I think, twice, I can not say as to the amount; I think it was three weeks I staid in Boston before I left at that time, perhaps not so long, perhaps longer; when I left Buffalo I left no word with Matthews where I was going; my wife knew I was going to New York, no further; while I was in Boston I got a letter from her

after I had been there, I think, two or three weeks; I then went to Rochester, having received a communication from my wife, wanting me to come home, about this power of attorney that I had given Mr. Truesdale; I went there, and saw C. M. Everest at his office; did not see H. B.; I think he had gone back to Colorado, but wouldn't be sure; he was not there; after getting this letter from my wife I telegraphed from Boston to C. M. Everest; after I arrived in Rochester he wanted to know what brought me back; I told him I came back in regard to the power of attorney I had given Mr. Truesdale; I told him that my wife thought that Mr. Truesdale was charging her too much for transacting the business; that was the reason I came home; he says, "You better fix matters as soon as you can and go back;" I transacted my business and went back to Boston; I don't remember how long I was in Rochester, it might have been a week or less; my wife had moved from Buffalo back to Rochester; when I went back to Boston I did the same as I had done before—hung around the office and warehouse, and occasionally helped to roll in a barrel of oil, something like that; staid in the office while Reynolds was out, with the other men there; I don't remember how long I staid in Boston that time, it was two or three weeks; I then went back to Rochester; I did not do anything for quite a little while, and I went to C. M. Everest and told him I wanted something to do. "Well," he says, "we have not got anything for you to do just now; you are all right;" he says, "We are going to put down a salt well at Leroy, and we want you to take charge of that when we get around to it;" it was, I can not say, a month or two before they had done anything about the salt well; I went to the Vacuum Oil Company's office and drew my pay, at the rate of \$1,500 a year; during that time I asked Charles what I had better do in regard to my stock that I had subscribed to, and my settling up with the Buffalo company; he says, "You better go up there and take Outerbridge with you, and see them;" he was, as I understood it, acting as their attorney; we came to Buffalo together; Outerbridge had told me at Rochester what to say; I had a talk also with Mr. Everest and Mr. Beach; we found Matthews; the first time, I believe, we spent half a day here; I came again to Buffalo with Outerbridge, perhaps a month or two after that; I think we went back the same day.

I never again went to work in the Rochester works, manufacturing oil, after I left there; I took charge of some men to dig a ditch there; we were, perhaps, a week or three or four days digging it; I had to go away then; that is all the work I remember of doing around there.

C. M. Everest told me to go to Buffalo and buy, or first go to Olean, I think, and see some parties about letting the contract to put down the well; I went and saw them; the result of it was that they let the contract to these parties; then I came to Buffalo and bought an engine and boiler of some firm here in Buffalo, had it shipped there, went there and hired a man to unload it, draw it up to where they were going to ———; I sank a well up there at Leroy for salt; I think C. M. told me he was doing it in his name, or his folks', I wouldn't be certain which; I guess I was employed three or four months sinking the well, perhaps longer, from the time we were first started to do anything about it; I think it was in September, 1881, when we first commenced operations to buy stuff, or October; I used to go up on the cars from Rochester in the morning and come back at night; sometimes I would stay up there a day or two; kept a record of how deep the drillers would go, and what state of rock they went through; when they got to cutting brine, I waited to find the gravity of the water and brine; reported progress to C. M., how they were getting along; that continued to, I think, December or January, maybe it was February when it was finished; I drew my pay regularly from the Vacuum office; did not do anything particularly after that, till I went to California; I think it was along about the 8th of May, 1882, that I left Rochester for California; I talked with Charles a number of times about going there; I told him I wanted something to do, something that I could pass my time away, and not be running round. "Well," he says, "there is not anything for you to do at present;" he says, "I wrote a letter to father, and see what he says in that letter that he wrote to you about going there;" I had a letter from H. B.; I had sent him a paper and wrote him a letter, which the one I received was the answer to.

The letter was offered and received in evidence as Exhibit "D."

EXHIBIT D.—H. B. Sten. May 13, 1887.

RIVERSIDE, CAL., February 23, 1882.

A. A. Miller, Esq.:

DEAR SIR: Your letter and the Le Roy paper came to hand.

I felt confident that you would find a body of rock salt in Le Roy. If you did not pass through such a body of salt, you must be very near to it to get brine of 80°.

The bitter water is a long distance above the salt body in Wyoming, and should be carried off.

I know so little about the progress of this well I am not prepared to express an opinion as to its value.

I should advise the sale of it, or, if no sale, a gift of it to enterprising citizens who would pump it and make salt.

Shall we get the \$1,500 of the citizens?

You ask what you will do. I suppose you will do whatever Cha. wishes you to. I know so little about what is to be done that I would not venture to say anything about it.

If I was to advise you I should say come to this country and plant out apricot, peaches, grapes, oranges, and lemons, and in a few years have a place that will be worth \$20,000. You can do it by economy and not very hard work in six years' time, and be independent, and live in a climate where only slight frosts occur in winter, and in which summer is no unhealthy season. The coast breezes make it lovely. Nights always cool and delicious.

We think now that we shall make it a home here. Ross Hart leaves a position and salary of \$2,400 per year and is now preparing the ground for trees. He thinks he will do better than work for that price, and so do I.

I am caring for 10 acres for C. M. E. next to mine, for I expect he will come here to live at no very distant day.

Pack up, sell your property there, and come on. Come right to my house, and I will help you to get a place and show you how to raise fruit and be an independent man.

Yours, respectfully,

H. B. EVEREST.

After that Charles said he had got a letter from his father; that they were going to start a cannery; his father was going to be a stockholder in a cannery, and that there was an opening there for me; that I could go there and it would be a good thing for me; I could learn the process, the business, and that father had made arrangements whereby the company will pay me \$50 a month; "The Vacuum Oil Company," he says, "will pay you \$75, that will make \$125, and my advice to you is to go;" I told him I would consider it; I done so and made up my mind to go; he allowed me, I believe, \$200 for expenses; my wife was to draw the \$75 a month from the Vacuum Company; the company that employed me was to pay me \$50 a month. I went to San Francisco, staid there a week or so, arrived at Colton Station, which is 3, 4, or 5 miles from Riverside; this is some 300 miles or so from San Francisco, in southern California; I arrived there on Sunday, I believe; took a stage-coach and rode to Riverside and went to the hotel; that evening, or afternoon, I walked up to Mr. Everest's house at Riverside; he says, "We have made all arrangements for you to go to work, and expected you here before." "Well," I says, "I am here now, and I am ready to go to-morrow;" he says, "All right, I am glad you came, bring your trunk up here to the house, and you can stay here nights till we get the cannery going, and you can board down at the hotel; we will fix up a nice room for you at the cannery, and then you can stay there;" the next day, I believe, they sent my trunk up to Mr. Everest's house, and I went to work at the cannery; he said, "I suppose you understand the arrangements?" "Yes, sir," I said, "I understand it all right;" he says, "We will have further understanding hereafter; I have made arrangements whereby you can go into this business and learn the process, business, and make a nice thing when you want to work;" they had a man there, a processor, and he showed me what he could during the time he staid there about the business; I only staid at H. B.'s house a few nights; I got my room fixed up at the cannery and moved up there; I believe I worked in the cannery till August; I never heard that the Vacuum Oil Company had anything to do with that cannery; I drew at the rate of \$50 a month while I was there.

The stockholders in the cannery got a little dissatisfied about the way the thing was running, and I thought it wasn't going to last; I told Mr. Everest I guessed we had better have an understanding about this matter, about whether they were going to make up what I had lost by this transaction; I told him I wanted to know what they proposed to do with me; I said, "It is about time we had an understanding now, what you are going to do with me; you have had me around from one place to another, and given me no steady employment; now I want to have an understanding, and if you don't propose to give it to me and make up what I have lost by this transaction, I am going to leave you, and I will give you notice according to our agreement in Boston, that if you wanted to dispense with my services you were to give me a year's notice, and if I wanted to leave you I was to give you a year's notice; now I will give you notice that I am going to leave you." "Well," he says, "this is kind of sudden," or something like that; he says, "I will write to Mr. Archbold, and advise that he release you;" I says, "If you propose to make good what I have sacrificed by this transaction, I want you to do so right off; the quicker you do it the better;" "Well," he says, "you will give me time,

won't you?" He says, "You know it takes a couple of weeks or longer to do business from here to New York;" I says, "Yes, sir, I will;" I waited two weeks, I believe, or longer; he says, "I have heard from those parties and they are willing to release you," or words to that effect; previous to this, before I had been there two days, he advised me to buy a piece of land; he says, "There is a piece of land over here that you can buy for \$1,200;" says he, "I would advise you to buy it;" I says, "I haven't got the money;" he says, "You can send and get it; we will go over and look at it;" he seemed to be very anxious to locate me there; I think we went over the first evening I was there; the result of it was he bought the land for me and took the deed in my name, as I understood it; I sent to my wife to get the money; I had some money in the bank in Rochester, and I sent a check to get the money for my land which I had in the bank. My wife, in place of sending the \$1,200, or thousand, whichever it was, sent out \$600, or C. M. Everest sent it.

(Witness produces a paper.)

This is the draft or receipt for the money.

(It was admitted that the paper was in Charles M. Everest's handwriting.)

It was offered and received in evidence as Exhibit E.

EXHIBIT E.

ROCHESTER, N. Y., July 26, 1882.

Received of Mrs. A. A. Miller six hundred dollars on account of draft for twelve hundred dollars, made by A. A. Miller on C. M. Everest and indorsed by me.

H. B. EVEREST.

By C. M. E.

I believe this money came to H. B. Everest; he gave me credit for it, I suppose, on the purchase of the land; he had taken a deed of it for me; I never saw the deed till I made the transfer back to him; afterwards he told me that he had heard from these parties, and they were satisfied to release me, and he made out some papers, something in regard to the patent, that the Buffalo Company was infringing upon the Vacuum Oil Company's patent; I didn't pay particular attention to it; he did not read me or show me any letter purporting to come from Archbold; he simply said that he had heard from these parties, and everything was satisfactory, and they would release me; I told him then we would go and settle up; he made out papers, a receipt, I believe, for what was coming to me and we went to the lawyer's office; there this property was transferred to him, and I told him if he was ready to pay me, I would quit; we went over to the bank and he drew his check and paid me what was coming to me, I think a thousand dollars or more, I do not remember the exact amount; I had some further conversation with him before I left there, but nothing pertaining to this matter, as I remember; had some before we settled up, and after the time that he wrote to these parties, or said he would; he repeated the same thing that he said the first time I saw him, that if I had only done as I ought to have done, and come and told him at the time, he would have fixed things so that everything would have been all right, and says, "You went too far with it, and if you had come and told me about this thing, as I told you before, we would have just got them fellows right in a boat, and got them right in the middle of the stream, and we would have just tipped them two over and drowned them, and you would have been all right;" this was either coming down town on an evening or sitting somewhere; I can not say where this conversation took place; we talked it over a number of times, about what he would have done if I had done so and so.

What I was saying about a patent was, he made out a paper in the form of an affidavit, I believe; I saw the paper once; I do not remember reading it at the time; I was a little excited at the time; it was for me to make an affidavit, which he said he wanted to use in evidence in suits that they were bringing; he also said in the bank, "Now we have settled up, now we are good friends;" I says, "Mr. Everest, I have nothing against you, I do not suppose you have anything against me personally, but I feel as though that you hadn't, through the Standard Oil Company, hadn't used me well," that I thought they hadn't used me as they ought to, that they said if I come with them they would stand by me, and that any law suits, anything I lost by the transaction they would make good; and he says, "Now, we are about to leave one another," and he says, "If anything ever comes up in this matter I would like to have you stand by us, and we will give you—we will see that you are paid all right, and we will give you \$25 a day while we need your services;" I says, "Mr. Everest, I do not know as I am under any obligations to the Standard Oil Company;" I says, "I do not know as my interest lays that way, I do not think I shall do anything to benefit them, they have injured me all that they can, they have switched me all around, all over the country, they have got me out of employ, not given me anything

to do, which I sought to have them do; I do not think they have used me right, and I have sacrificed considerable money by this transaction, and you have always promised that it would be made good, and you have not done so; now," I says, "that settles it; I do not think I shall do anything in the way of the Standard Oil Company," or words to that effect; I can not remember, but it was to give them to understand that I did not have any great love for them, the way they had used me.

Shortly after that I came back from California to Rochester, where my wife was; then I moved back to California; I had some property there, or was about to buy some; I staid there until January, 1883; I only remained in Rochester a short time in 1883 before I went back to California; I took my family with me; C. M. Everest gave me the money for my expenses to California the first trip; I think it was \$200; they paid my expenses back from California to Rochester, that was the understanding I had with C. M. Everest before I went, that if I was dissatisfied they would pay me my expenses back; when I went again my expenses were my own business; after I got back to Rochester I can not tell how long it was before I did anything; the first work I did was for the Phoenix Oil Company, in Buffalo, manufacturing oils; I staid with them until August or September, I think it was, of 1883; I am now living at Corry, Pa., with my family; I am in the employ of Clark, Warren & Co., manufacturers of oil, and have been, I believe it will be three years in September.

(Witness is shown paper.)

This is the agreement between myself, Matthews, and J. Scott Wilson, that I have mentioned in my testimony.

The paper was offered and received in evidence as Exhibit F.

ARTICLES OF AGREEMENT BETWEEN WILSON, MATTHEWS & MILLER.

We, the undersigned, C. B. Wilson, C. B. Matthews, and Albert A. Miller (cut out with signatures) have this day formed a copartnership for the purpose of the purchase, manufacture, and sale of oil and (cut out with signatures) of such real estate and various appliances, material, machinery, stock, etc., necessary in carrying on the above-mentioned business.

Said copartnership to continue for the period of five years from date, and is to be known as the Buffalo Lubricating Oil Company. Each member of the firm agrees to furnish the sum of \$2,000 to aid in carrying on the business of the company, and agrees not to withdraw from the copartnership above mentioned without the written consent of the other members of the firm, and also upon the condition that he or she forfeit to the company the \$2,000 originally paid in by them. Any member wishing to withdraw from the firm shall make a written request to the company, or the request will not be considered.

The three members of this firm are each to share alike in the profits and losses of the above-mentioned business, and are each to give their time, influence, and best endeavors to advance the interests of the copartnership.

It is further agreed that Mrs. C. B. Wilson, in order to entitle her to an equal one-third interest in the property and business of the copartnership, is to furnish it with the services of her husband, J. Scott Wilson, such continuous service on his part to be received instead of individual effort on the part of Mrs. C. B. Wilson, in doing and extending the business of the company.

Dated and subscribed at Rochester, N. Y., this 15th day of March, 1881.

(Cut out).

C. B. MATTHEWS.

(Cut out).

We afterwards formed a stock company.

I don't remember whether or not I wrote to my wife from Boston while I was there first; I think I did; I wrote some letters to her; I think I received a letter from her in answer to it; I think I received a letter from Truesdale, accompanied by some papers.

(The witness now explained the construction of the still at the Buffalo works):

The two stills set side by side; they were bricked in on the outside, and the fires were put under; the oil was run into the still through a pipe connected at the top of the still; if I remember right, there were four pipes that led from this still that took off the evaporation, the gases; they pass off into what we term the "condenser;" the tail-house, where we cool the vapors, when we first erected the works, was right at the end of the box, as we call it, the water-box; after the pipes pass through the cold water it condenses the vapors, and they come into this tail-house; they pass into a receiver there, and from there into the tanks, which are located on the ground; that oil is naphtha, kerosene, or paraffine, as we term it.

Q. What would be the consequences in case too hot fires were applied and the gas should blow off the pipes and become ignited?—A. The consequences would be there would be a fire; if ignited there would be a fire.

Q. Are these gases explosive?—A. Yes, sir; if confined.

Q. In this first run of 175 barrels how much residuum should have been left in the still from which to manufacture lubricating oil under the usual process of manufacture?

(The defendants objected to the question as immaterial and irrelevant, and upon the ground that at the first experiment in new works it would of course not be expected that there would be a successful result; and that there was not the slightest evidence that Miller did anything amiss in connection with that experiment, or any imputation upon him yet.

The objection was overruled and the defendants excepted.)

A. I think there would be from the drawing that we wanted to get at that time perhaps 22 barrels of residuum, along there somewhere. I don't remember exactly what we were running, but I think we were running for what we term 28 gravity.

The certificate of incorporation of the Buffalo Lubricating Oil Company, Limited, was here offered and received in evidence from the files of the clerk's office of Erie County, and it is as follows:

STATE OF NEW YORK,

Office of the Secretary of State, ss :

It is hereby certified that an original certificate for the formation of a corporation in the class of limited liability corporations, under the corporate name of Buffalo Lubricating Oil Company, Limited, was filed in the office of the secretary of state under chapter 611, laws of 1875, entitled "An act to provide for the organization and regulation of certain business corporations," on the 15th day of April, 1881, and that the following is a true and correct copy of said original certificate (the same having been compared with said original) and that of the whole thereof:

BUFFALO, N. Y., April 13, 1881.

To his honor the Secretary of State, State of New York, Albany, N. Y. :

We desire to organize for incorporation a company under the provisions of the act passed June 21, 1875, such company to be known as the Buffalo Lubricating Oil Company, Limited, its object being the producing, dealing in, storing, conveying, and manufacturing petroleum into its various products.

Dealing in, storing, and conveying the products of petroleum.

Dealing in and manufacturing packages and things convenient or necessary in carrying on the aforesaid business.

Its principal operations to be carried on at Buffalo, N. Y.

The amount of its capital stock to be \$40,000.

Its capital stock to be divided into four hundred shares of \$100 each.

Its principal business office to be located at Buffalo, N. Y.

The duration of the corporation to be for the term of twenty years.

We, the undersigned residents and citizens of the State of New York, desire to form a corporation as herein stated.

C. B. MATTHEWS.

A. A. MILLER.

J. SCOTT WILSON.

J. L. MATTHEWS.

F. R. BEARDSLEY.

Subscribed and acknowledged before me this 13th April, 1881.

TIMOTHY COCHRANE,

Justice of the Peace in and for the city of Buffalo, Erie County, New York.

STATE OF NEW YORK,

Erie County Clerk's Office, ss :

I, Robert B. Foote, clerk of said county, and of the courts thereof, the same being courts of record, do hereby certify that Timothy Cochrane, whose name is subscribed to the proof or acknowledgment of the annexed instrument in writing, was at the time of taking such proof or acknowledgment a justice of the peace in and for the said county, duly commissioned, sworn, and authorized to take the same; and further, that I am well acquainted with his handwriting and verily believe that the signature to the said proof or acknowledgment is genuine. In testimony whereof I have hereunto set my hand and affixed the seal of said county, at Buffalo, this 14th day of April, A. D. 1881.

[SEAL.]

J. E. EWELL,
Deputy Clerk.

And it is further hereby certified that upon the filing of said certificate, of which the foregoing is a true and correct copy, on the 15th day of April, 1881, as aforesaid, a license was issued by the secretary of state, pursuant to said act, to the five persons

named in and who made and acknowledged said certificate, empowering them as commissioners to open books for subscriptions to the capital stock of said proposed corporation at such times and places as they might determine.

And a verified record of the proceedings of said commissioners having this 3d day of June, 1881, been filed in the office of the secretary of state, containing a copy of the subscription list to the capital stock of said proposed corporation, together with a copy of the by-laws for said proposed corporation, adopted by the subscribers to said capital stock at a meeting of said subscribers held at No. 54 West Seneca street, Buffalo, N. Y., at 2 o'clock p. m., on the 28th day of May, 1881, pursuant to the provisions of said act, as appears from a verified record aforesaid, at which subscribers' meeting, as aforesaid, seven directors (being the number provided for in the said by-laws of said proposed corporation) were also chosen, whose names, as further appears from said verified record of proceedings filed as aforesaid, are as follows, to wit: Charles B. Matthews, C. B. Wilson, Frank R. Beardsley, Albert A. Miller, Charles C. Beardsley, Daniel R. Benedict, Hiram Benedict.

Now, therefore, I, Anson S. Wood, deputy secretary of state, do hereby certify that said corporation, to wit, Buffalo Lubricating Oil Company, Limited, is fully organized in accordance with said act, chapter 611, laws of 1875, and that all the provisions of said act have been duly observed in the organization of said corporation as hereinabove set forth.

Witness my hand and the seal of office of the secretary of state, at the city of Albany, this 3d day of June, 1881.

[L. s.]

ANSON S. WOOD,
Deputy Secretary of State.

STATE OF NEW YORK,

Erie County Clerk's Office, ss:

I, Joseph E. Ewell, clerk of said county, do hereby certify that I have compared the annexed copy of certificate of incorporation and copy indorsements thereon with an original record of the same and its indorsements, entered and on file in this office, and find the same to be true transcripts of and from the said originals and the whole of each thereof.

In witness whereof I have hereto set my hand and affixed the seal of said county, at Buffalo, this 23d day of June, 1884.

J. E. EWELL,
Clerk.

The WITNESS. C. B. Wilson I think was Mrs. Wilson; the two Beardsleys were brothers, living in Wyoming at the time; the two Benedicts lived at Lockport, I believe; I was elected vice-president, I believe, of this company; I believe I subscribed for twenty shares of stock, for that or more, I don't remember which.

Upon cross-examination the witness said: The first Everest I became acquainted with was Horace Everest, brother of Hiram B.; that was in 1863 or 1869, I think; he was then engaged in the Vacuum Oil Works; I suppose I had been there to work about two weeks, I think, or perhaps not so long, when I became acquainted with H. B.; they sent for me, I being unknown to any of them before, so far as I knew of; they asked me to go to work in any sort of work that I might be able to do at first. There was a misunderstanding when I first went there about what I was to receive. I was first employed continuously a few weeks only, and then left on account of some misunderstanding between my employers and me about the rate of my payment. I staid away then perhaps six months, working at the carpenter trade in the employ of a man named Punnett; then I came back to the works, I think, in 1869; I went to work firing boilers; my object in going back was to learn the business; I proceeded to learn the business generally—all departments of it, as far as I was able. Before that I had had no occupation of a similar character at all; I had never been employed about steam-engines or machinery; I do not know whether I was firing the boilers three months or six months; then I took the running of the still—was called "stillman;" I continued to run the stills until I took charge of the work—until Mr. Everest made me superintendent of the entire manufacturing department; I think that was about 1877 or 1878. From that time on I had the supervision of the whole manufacturing of the oils; all the departments of manufacture were under my particular supervision, and continued to be down to the month of March, 1881.

Mr. Everest first came to hear of me through my brother Truman, who had already been in the employ of the company, and was at that time; it was through my brother being there that I was called upon to get employment there at that time, I believe; so far as I know my brother has continued there ever since.

When I first went there, if I remember right, I understood the works had been in operation a couple of years, perhaps longer; I do not remember as to that; it was comparatively a new establishment. I became acquainted with the two Everests who are defendants here shortly after I went to work, and have known them ever since, at least down to the time I left there, quite familiarly.

At the time I left the concern I believe I was getting paid by the month; I don't remember the amount; I think it was about \$112, or along there; it came to \$1,400 a year, or a little over, figuring in my house rent; the house belonged to the company, and I figured the rent of it as a part of my wages; they never charged me anything for the house. This sum of about \$112 a month was made up in two or three different forms, so much a month, I don't remember the exact amount, so much a day or an hour besides, and so much a year besides; that was the arrangement under which I was working for some time before I left them. Some time in the spring of every year we looked after accounts with the company, and closed up for the year.

I think it was in the year 1880 that I first became acquainted with Charles B. Matthews; it might have been earlier than that; I think Mr. Everest made me acquainted with him; I don't remember where; so far as I can remember, at the company's office; the first time that I remember now of knowing that he was in their employ he came to the works to interview me; the works were in one part of the city and the office in quite a different part; I do not remember the year that he came there; it was perhaps a year before I left—might have been two or three years; I believe that he then had charge of a printing office or something—something connected with a paper, or doing some business for that; I believe they were printing a paper at one time; I don't remember what sort of paper it was; I have seen it; Matthews, I understood, was connected some way with that paper; I also had reason to believe from the papers that he showed me that he had some other business; he came up to interview me in regard to something pertaining to a refinery; I do not really remember what it was; he had some papers that he showed me that I looked over; the papers were something pertaining to a patent; I could not say whether they were letters patent.

Q. Or copies of them?—A. They were simple drawings.

Q. Like those from the Patent Office, were they not?—A. I don't know as I ever saw any from the Patent Office.

Q. Did you never see any letters patent?—A. I don't remember; I may have; I think I have.

Q. And so you can not say anything about those papers, except that they looked like drawings?—A. Yes, sir.

Q. You inspected them at the time, did you?—A. He showed them to me.

Q. And you inspected them?—A. I looked them over; yes, sir.

Q. And you inspected them?—A. I examined what there was to it.

Q. And you inspected them?—A. I don't know what you mean by that.

Q. You do not know what "inspect" means?—A. I examined them and seen what they were.

Q. And you inspected them?—A. I said—I suppose you would call it inspecting to look at them, I don't know what you would call it.

Q. And then you learned, did you not, that Mr. Matthews had some other relation to the company than the editorial relation of the paper?—A. Why, I thought so when he showed me those papers, of course.

Q. And that that relation respected the letters patent of the company for various processes and products, and so on, did it not? That was what you understood?—A. I did not understand the question exactly.

Q. That his relation to the company had regard to the patented processes and products and apparatus of the company; that was what you understood, was it not?—

A. I understood that those were patents of other parties; I had no reason to think that he was specially charged with looking into the patents of other parties and of the company; I knew that he had these papers, that was all I knew. I understood he was looking after the company's interest, I never knew in what affairs.

As high as I can recollect, it was at the company's office that I first saw Mr. Matthews; it may have been at his house for what I can remember; his house was in Wyoming or Warsaw, somewhere in Wyoming County; I went up there to see a salt well that they had put down, to look it over, and to hunt; I went there merely on a pleasure excursion, not on behalf of the Everests; if I remember right, Mr. Everest gave me a pass.

I have been living at Corry very nigh three years; during that time I have been here in Buffalo some time, at different times may be two months or longer, during the three years; I have had business in Buffalo during that time, no occupation; I do not think it would exceed eight times that I have been here in those three years, I don't think that many, may be more, I can not remember; sometimes I have staid here several weeks together; my employment with Clark, Warren & Co. has been steam-fitting, general man, now I have charge of one department; I think during that time I was here once six or eight weeks together; we came here, and my wife was taken sick and had to stay; that was a year ago last winter, I believe.

When I went up to Warsaw or Wyoming in 1877 or '8, I believe I staid a couple of days; I believe there was a salt well completed there at that time in which I understood the Everests were interested; Mr. Matthews did not, to my knowledge,

have anything to do with that at that time; he might have had, I don't remember whether or not; I think I saw him while I was there.

Q. Is it not true that Mr. Matthews, when he came there to see you and consult with you at the works, had with him a book with cuts of different patents pertaining to the manufacture of oil?—A. He might have had and showed them to me; I don't remember; I don't remember now.

Q. Now, did he not, as a matter of fact?—A. As I say, I don't remember that he did have.

Q. Well, now, have you not so testified?—A. I don't remember whether it was a book or just drawings, it might have been a book: I couldn't swear positive that it was a book.

Q. And they were drawings of patents, too, were they not?—A. Well, I expect they were drawings of patents; I don't remember as I—

Q. You do not quite want to swear that they were drawings of patents?—A. No, sir; I do not feel as if I—

Q. But, now, you have so sworn, have you not, on another occasion?—A. I don't remember, perhaps I have.

Q. Oh, well, that is really what you understood them to be?—A. As I remember now, I don't remember whether it was in a book form, or what form it was in.

Q. I am indifferent about the book form.—A. Whether they were patents or drawings.

Q. And he consulted you on the subject of the relations of these patents to the way the Vacuum Works were constructed, did he not?—A. I think, if I remember right, it was pertaining to these patents, as he claimed that somebody was infringing on their patents, or something, and he was looking up the matter; or somebody was claiming that the Vacuum Oil Company was infringing on their patents, I don't remember which.

Q. And that was his business, was it not?—A. It seemed to be at that time; yes, sir.

Q. And this was in the interest of the Vacuum Oil Company that he did this, as you understood, was it not?—A. I so understood.

Q. You understood that from him, too, did you not?—A. Well, I had reason to think so; he did not say anything about it; I understood so from him; I should not have given him any information.

Q. Have you not, on a former occasion, testified "he was in the interest of the Vacuum Oil Company, as I understood it"?—A. That is what I say now; after that time I don't think I ever saw him at the works again; I saw him a number of times at the office, passing into his office or going up in the elevator; I believe he had a room where he done his business, the company's business, as I understood it; I do not know anything about how long he was connected with the company; I don't know whether he was connected with the company at the time he and I met in calling on Charles Everest, in the company's office, or not; I can not swear that he was connected, I suppose that he was.

Q. But you did not know whether on that day he was in the employ of the company?—A. No, sir; not that I know of.

Q. And so, when Mr. Matthews informed Mr. Everest, just as you had a moment before, that he was going to leave the company, you did not infer, did you, that he was up to that time in the company's employ?—A. I don't remember that he put it in just that way, that he was going to leave the company; I don't know as I remember that he put it in just that way, that he was going to leave the company; as I remember now, he said that he was going; that we were going to build a works; I don't remember that he said he was going to leave the company, he may have said it; I don't remember that he did. I had been conferring with Matthews previously for some little time before that; talked it over. During these two or three years, from 1878 or '9 down to the beginning of 1881, I had nothing at all to do with Matthews, that I remember of. That is the only business we ever done together—just that little matter—till this subject was talked of, about our going to Buffalo; that was first talked of in the winter of 1881, I believe, might have been the last of 1880; as nearly as I can remember, in December, '80, or January or February, '81, along there some time. It was first suggested to me by J. Scott Wilson. I do not remember that he was then in the employ of the company; he might have been, I don't think he was; I knew that he had been in the employ of the company. I can not say whether I heard of his having left it; I think I had heard that he was not with them; it was, perhaps, in the latter part of 1880 that I heard that. I think it was in 1881 he commenced to talk with me on this subject; it might have been in 1880. It might have been a week after Wilson suggested it to me that I heard from Mr. Matthews about it; it may have been a month, I don't remember as to that; I don't think it was so short a time as a week, it may have been, I don't remember. I think I then saw Mr. Matthews about it at his house or Wilson's, I don't remember. We met for the purpose of talking the matter over. This might have been in January or February; I think it was in January, or along there some

time. I could not say whether at Wilson's or Matthews' house; I think the first talk we ever had was at Wilson's, I don't think it was at Matthews', I can not remember now which. I was in Buffalo on the 21st and 22d of March, last year. I may have been then under the impression that it was at Matthews' house that this meeting took place, I don't remember.

I think I first got acquainted with J. Scott Wilson in 1869 or '70; he was then living in Rochester. He might have been two or three years in the employ of the Vacuum Company, might have been longer; I knew, in fact, that he had been in their employ for several years prior to March, 1881, as agent to sell their oils, as I understood it, traveling through the country.

Before that first meeting we had, I had not talked with Mr. Matthews at all about leaving the Vacuum Company; I had, however, exchanged speech repeatedly on the subject with Wilson; he was following me around; about every time he would see me he would talk on that subject to me, about forming a stock company and going into the manufacture of oil; we were to manufacture oils, and get out all the products that were possible to be got, and make all kinds of oils that we were capable of making; we intended to make as good oil as the Vacuum Company was making, a little better if we could; I don't know as really the same kind—various grades of oil that they made; yes, sir, various grades that they made, and by the same processes that the company used, and by apparatus exactly the same that they used, or better, if we could get it; and before the 19th of March, 1881, when we went in to see Mr. Everest, we had already made considerable progress in those arrangements, I think; I think that we had made some purchases; I think I had been up here before that to look over land; yes, sir, I am pretty well satisfied that I had; I think we were up here one day, may be two, I do not remember; I did not offer any deduction from my pay to the Vacuum Oil Company for that purpose; I had already before this called upon the iron founder for the Vacuum Company, to take the patterns belonging to that company and reproduce parts of the apparatus of the company for that purpose; I believe that apparatus was at Emory Jones's, in Rochester; I received the bill for that myself, I think; I do not know as I did; I went and paid for the patterns before any bill came in to the Vacuum Company; when I spent that two days in Buffalo buying land for the new concern, I continued to be under pay from the Vacuum Company; they paid me till I quit them; at this time I had already been aware that the Vacuum Company claimed to own the exclusive right, by letters patent, to some of these products, processes, and apparatus that we proposed to use; I thought that the use of the patented processes or apparatus, or the manufacture of the patented product, was very likely to be followed by litigation, if the patents was any good, and that the litigation would determine whether or not the patents was any good; I had had occasion, before this time, as superintendent of the Vacuum Works, to order castings from time to time from Jones's foundry, and machines, or parts of them, from Jones's machine shop; at the time I ordered these, I do not think there was any Buffalo concern mentioned to Mr. Jones or his foreman; the patterns were, as I understood, the property of the Vacuum Oil Company; I believe Mr. Emory Jones is a reputable business man; I so understood at the time; I don't think I got of him castings from those patterns belonging to another man, telling him it was for the benefit of a rival concern; I do not think there was anything said about who the patterns were for; I simply ordered the castings, and that was all there was to it, according to the best of my recollections, and just as I had always ordered patterns, castings, or machines before.

I think that at this time Mr. Wilson told me he had left the employ of the Vacuum Company, but I would not be positive; I think it was about the time he first commenced to interview me on this subject of building a works; Matthews, Wilson, and I might have had a dozen consultations before the 19th of March, or half a dozen; when we were together we talked it over; we talked it over separately; I considered it worth something, Wilson's power to turn over the customers of the Vacuum Company to the new concern; he thought he swayed a pretty big power; nobody else did so, I guess; I never thought he did; but that was worth something, I so considered it.

Q. To catch the customers of the Vacuum Oil Company?—A. He claimed that he had lost them customers; that he gathered orders years when he was in business for himself, and he thought he would be quite a good man.

Q. It was said also by using the same processes, the same apparatus, and putting up goods in the same way, that you would be able to make a very large inroad upon the Vacuum Company's business, was it not?—A. I do not think there was anything said about the apparatus; simply said, if we produced as good products as they did, why, we could sell our oils as well as they could to anybody that wanted them; I don't remember that it was particularly talked about that we would sell to those who were already using their goods; it might have been, I do not remember that it was; it was also talked about that the goods would be put up in about the same way; according to the

best of our ability we proposed to make as good goods as they, and put them up as good as they did. I have been a good deal interrogated about these transactions from time to time; I have been interviewed a good many times by different parties about this business; I think this makes the fifth time that I have been examined judicially about these transactions; the first time was in June, 1884, at Buffalo, before Mr. W. H. Slocum, stenographer and notary public; that was a deposition made by me on behalf of the plaintiff in an action brought by the Buffalo Company against the Everest; I came down from Corry at that time for the purpose. The next time was in October, 1885, before the grand jury of this county. The next was in February, 1886, a second time before the grand jury of Erie County. The next time I was examined here before Mr. Thornton, a stenographer, in a new action brought by the Buffalo Company against the Everests, and Mr. Archbold, Mr. Rogers, Mr. McGregor, the Vacuum Oil Company, the Standard Oil Company, and some others; I believe that was an action to recover \$250,000; the first of these occasions I came from California to be examined; the other four times, including the present, I came from Corry for that purpose.

When the stock company was incorporated, as I understood it, that took up the property and business, such as it was, in the partnership that I had already formed with Mathews and Wilson; it simply succeeded to that; I subscribed for stock in the new company, I don't remember how much; it seemed to me that I subscribed for 10 or 20 shares, I don't remember exactly; I believe they were \$100-shares, according to my best recollection. Those who took stock in it besides were Mrs. Wilson, C. B. Matthews, the two Beardsleys, the two Benedicts; when it came to pay in I paid \$50 on my stock; that is all, I think, I ever paid in; the new company bought out my interest in the former partnership; we came to an understanding about it, but the \$50 was all that I ever paid into the stock; I believe that I was also one of the trustees of the new company, besides being vice-president; an arrangement was made under which salaries were fixed for several of the officers; I don't remember whether that arrangement was made by a resolution of the board of trustees; I think it was; I think I attended two or three meetings of the trustees, I don't remember; I do not remember when the salaries were fixed; I could not say whether it was after or before the incorporation.

I have seen the vacuum stills of the Buffalo Company, but not since it was connected. At the time when Charles Everest asked me if he and his father and the Vacuum Company had not always treated me well, or done well by me, I answered him that they had; and that was true; when he says something to me by way of protest against my breaking with them and going off to Buffalo, I told him I went out with these men in good faith; I think that was the expression, as I remember it; I meant good faith to these men that I had gone out with; I did not think anything about good faith towards the Everests or the Vacuum Oil Company.

Q. Since the time when you went out into the new company your feeling towards Mr. Wilson has become very much embittered, has it not?—A. Since the time he snubbed me when I was going to California; I had a little feeling against him, yes, sir; I have nothing against Mr. Wilson except that he misused me, as I supposed; deceived me in a good many ways; I don't remember having any trouble with him since I left the Buffalo Company; I may have told him that he was interfering with my business, or something of the sort, with the work that I was carrying on about the company's property; he had a habit of doing that; I may have told him that during the construction of the works; he wanted to hurry it up and get it completed; he was interfering with what I regarded as my province, and I did not like it—I did not like to have him interfere with it; I told him that I would attend to that part of it myself, or something like that; I don't know what I did tell him.

I don't think it was in the first conversation between Matthews, Wilson, and me that I made up my mind to go into the new arrangement; it may have been the first time, and it may have been along later; it was several weeks, at any rate, before I notified Charles Everest of my intention.

Q. And when was it that you first made up your mind that you would betray your new associates?—A. I think it was along in June that I commenced to talk that way with Everest, or he commenced to talk that way with me about leaving them; I think it was along the first of June that I commenced to talk that way to him; I may have had some talk with C. M. about it in May; I think I did.

Q. Had you in May made up your mind that you would betray them, and tell the Everests what they were doing, and commenced to act under instructions from the Everests instead of the Buffalo Company?—A. I think it was after the first interview with H. B.

Q. And that was, you think, about the last of May or the fore part of June?—A. I think it was.

Q. And so it was after you had determined to betray your new associates that you entered into a new agreement of incorporation with them, was it? The incorporation appears to have been on the 3d of June.—A. I had not made up my mind to leave them, nor did not, till I left.

Q. No; but merely to stay with them for a time, but to act under instructions from their rivals; that was the way the thing stood, was it not?—A. Up to June?

Q. Yes; up to the time you did leave them; it was some time in the latter part of May or the first of June, that you made up your mind to that; so it was after you made up your mind to that that you entered into an arrangement by which you were to be trustee and vice-president, and to receive \$1,200 a year, was it not?—A. I don't remember; there had been no arrangements made about my leaving; I believe the arrangement by which I was to be trustee and vice-president, and to receive \$1,200 a year, was made before that time.

Q. Of course there could be no meeting of trustees until the company was incorporated?—A. There was meetings of those that were, and the trustees elected before it was incorporated; it was at one of these meetings that this arrangement was made, if I remember right; it was made at the meeting—an election of trustees; I believe they were elected before they were incorporated; I don't know as there was any resolution passed in regard to fixing salaries; I think it was an understanding.

The first thing that I did in the way of betraying my new associates, I think it was the first interview I had with H. B. Everest and C. M. Everest; that consisted in telling them what we had got and what we had bought, and about how much we had laid out.

Q. Did you understand that you were doing any harm to your associates by telling the Everests what they had bought?—A. I knew that I was not doing right to—

Q. And did you understand that that was harming your associates any?—A. I thought—they had me so scared I thought I was going to—I considered that communicating these facts to the Everests was an injury to my associates. I felt like this, to let them know what we was going to have and what we did, that—that it would be an injury to them to know this company's business. I thought it would be injured. There was nothing unlawful in the Buffalo Company's business that I know of. The harm in telling them was I was betraying the company's business. Their object was to know, so that they could harm them; to know how to work and act. I don't know how they intended to act, of course.

Q. The only thing that you thought of was, perhaps, that you were disclosing the use of apparatus and processes on which the Vacuum Company claimed to hold an exclusive right; was not that all?—A. Yes.

Q. That was the only harm that you thought could come. In other words, that if it should turn out that the Buffalo Company was violating the law by infringing patent rights, it would be easier to prevent or stop the violation; that was the harm that you thought might come from telling them?—A. Yes, sir; I thought that was—

Q. Among these disclosures, which were the first that you did in the way of treachery to your new associates, did you disclose the fact that you had used the Vacuum Company's patterns to duplicate their apparatus; did you disclose the fact to the Everests?—A. Might have told them that we had patterns made there. I don't remember telling; I think it was mentioned, but I would not be positive. I think it was mentioned by Mr. C. M. Everest, I would not say as to that; I do not remember. I could not say whether they learned it in any way but from me; I don't remember how that was. That was not one of the things that I had specially on my mind to communicate to them. The Vacuum Company had sought to keep the processes and apparatus used there secret from the rest of the world. Those that we thought were seeking any information in regard to that line of business were supposed to be kept out.

Q. If a man came and told you, then, that he was of a rival concern and wanted to get at your processes, you excluded him?—A. None such came.

Q. No, I suppose not. Were there any other people whom you did exclude?—A. I never excluded any of those that didn't come around.

Q. And you did not exclude anybody?—A. They had signs, "No admittance except on business." I don't think they made it a strict rule to keep the people out. They never allowed me to take anybody around, or never told me to take anybody around and explain their methods of making oils. They told me they did not want their business generally known. After that change of ownership they did put restrictions with me on the visiting of their works. They refused to let me in. I don't know whether they ever from that time on instructed me to keep anybody out of there. I don't remember that they ever gave me any orders to keep people out.

Q. Last March you testified, did you not, in answer to this question: "After"—that is, after the change of ownership—"you say their methods were open to all the world; were they not?" Did you not make this answer: "It never put any restrictions; I never was instructed to keep anybody out from there."—A. I don't know as they ever gave me any written orders to keep people out or—

Q. Excuse me; you are not getting quite hold of my question. My question is only, did you last March make that answer to that question?—A. Perhaps I did; I do not deny it.

Q. Wasn't that so?—A. If I said so it was, as I so understood it.

Q. So it is true, is it not, that after that time "It"—this company—"never put any restrictions; you never were instructed to keep anybody out from there;" was not that true?—A. I think that is right; that I was never told to keep anybody out of the works.

Q. And you proposed, your people, to conduct the Buffalo business in a different way, did you not?—A. We proposed to keep men that we thought were trying to pry into our business out; yes, sir.

Q. That was a new system to you, was it not? You had not been used to that in Rochester, had you?—A. Well, I don't know; as I said before, we never kept anybody out that we were acquainted with.

Q. But you proposed to keep them out in Buffalo when you started anew?—A. We did, sir, propose to keep people out; I do not deny it.

Q. Your compensation for selling out your companions and their secrets which they wanted you to keep was to be \$1,500 a year, as I understand?—A. That is so. With the understanding that any losses or any—if they were to sue me, get any judgments against me, as I understood it, the Everests, or whoever they were, were to protect me, so that I lost nothing by it, and any losses that I sustained by this transaction they were to make good.

Q. Well, that of course was mere indemnity; that was no profit to you; you were merely to be made good for any loss you were to suffer?—A. Yes, sir; on account of my leaving this company.

Q. That was the whole compensation, merely the salary of \$1,500 a year?—A. Yes, sir; that is what I got.

Q. Then the difference between that rate and the \$1,200 that you were already getting from the Buffalo company was only \$300 a year, was it not?—A. That was all.

Q. So that the real compensation for which you were selling them out was merely the same as \$300 a year; that is what it really comes to, is it not?—A. In money, yes, sir. I don't remember as to the last time in the year 1881 that I saw Mr. Matthews; I think it was the day that I settled up with the company; I might have seen him after that, I don't remember; I think that was the last time I was in Buffalo that year; I saw him twice after I left the company on the occasions when I came up here with Mr. Outerbridge; I think I saw him once after or before that in that year, after leaving the company; I don't know whether after or before; I think I was alone, I don't remember; I think both times that I was there with Mr. Outerbridge were in September, I don't know; it was after I had been in Boston; I don't think the two visits were more than two or three weeks apart; on those two occasions I believe we saw him at the office of the Buffalo company, here on Main street, I believe; on that occasion there was some conversation in regard to my leaving the company, and I think I expressed a willingness to return to the employment of the Buffalo company; I think he said that they had made other arrangements, something to that effect, and I took it he then substantially declined my suggestion. I don't remember whether I saw Mr. Matthews that year again or not; if I did it was very shortly after. I think I met him one day, and he said he would like to see me and have a talk with me; that was all that passed, that I remember; if it was after being here with Outerbridge that he invited me to come and have a talk with him, I didn't go.

I think the next time I saw Mr. Matthews was after the second time that I came back from California; I think it was in March, I would not be positive; that would be 1883; I think I had been home from California a couple of months. At that time I was not engaged in any business; I hadn't done anything. In August, previous to that, I had left the employ of the Vacuum Oil Company, and after that I had been employed in California independently. After reaching Rochester in January, 1883, I was there with my family for a couple of months without any particular occupation, and rather on the lookout for it. Then I came up to Buffalo to look around for something to do here; I think it was March, 1883. That was what I came up for, to look for work. I believe at that time I met Mr. Matthews here; I would not say where I met him; I think I went to the office; I may have met him on the street, I don't remember. According to the best of my recollection this was the first time since the fall of 1881 that I had seen him; I don't think I met him in the course of my short visit East from California, before I went back again. During this interval of about a year and a half I had had no communication with Mr. Matthews but one letter, which I received in Rochester just before my coming up here; I should not have come up here quite as quick if I hadn't received that letter; I haven't got that letter; that was the only communication that I had with him of any kind, direct or indirect, during these eighteen months; I don't know anything about how he learned that I was in Rochester and not in California; I think it was about March, 1883, that I came up to Buffalo in response to this invitation from Matthews; it might have been later; I don't think it was as early as February; I think I staid here two days, came up one day and went back the next; I may have staid longer; I don't remember where I

staid while here; during that time I spent about an hour or two with Mr. Matthews, perhaps; he did not find me any employment; I think I then went back to Rochester; I came here again very shortly after the first visit; I got the position here before I went back; I would not be positive whether I got it at that time—if I didn't get it then, I was to come up again to see the party about getting the position; I do not know but I asked Matthews something about some parties who I understood wanted a man, perhaps I did; I don't remember as that was the subject in his letter; he just simply said he would like to see me—something of that kind. When I came again I got a position with the Phoenix Oil Company. I didn't, that I remember, come down here the second time in response to a communication from Mr. Matthews; if I remember right, I saw the parties before I went away the first time and made arrangements; Mr. Matthews did not introduce me to the parties the first time; I think he said, "You might go and see those parties," something like that; I don't think he gave me a note of introduction to them; he might have, I don't remember that he did, but I don't think that he did. They asked me, after I had talked with the gentleman, who I could refer them to, and I says, "I can refer you to different parties," and amongst them I think I referred them to Mr. Matthews; I don't know whether they followed up that reference, I don't remember; I asked Mr. Matthews the question—I says, "I am looking for a position," and I says, "I know I have not always used you right, and I want to go and see these parties, and if I should say to them, I can refer them to you, why I suppose you won't bear down too hard on me," something like that; he says, "No;" he says, "I will tell them you are capable of manufacturing oil," I think he said; I don't think he showed any unkindness towards me on that occasion; the understanding with the Phoenix was, which I afterwards fulfilled, that I was to go there and take charge of their works, be superintendent of the manufactory, just the same position I had filled in the other two companies. I continued there until they sold out; I can not remember how long. I think either August or September of that year; I was hired by them for a year, then they sold out the property and they paid me up to the time I worked; I did not attempt to collect it from them, the balance; then I was employed by the Atlas Refining Company, I believe; I think that was the spring of 1884. In the interval between September, 1883, and the spring of 1884, I was living on Elk street, in Buffalo; I do not remember that I had any particular employment then; I don't remember what I did do; I don't know as I done anything; I was not doing anything for the Buffalo company at that time. I can not fix the date of this first visit that I made to Mr. Matthews; I don't remember as there had been any suit commenced by the Buffalo company against the Everests; there might have been, I don't think there was; I don't remember whether there was or not. During this first visit, when I came one day and went back the next, I don't believe I was over three or four hours with Mr. Matthews; two or three hours, I don't know how long, it might have been longer; I had nothing else in particular to do except to see the Phoenix people and some other parties about employment; I think I went with Mr. Matthews to see a lawyer; I think then the subject of my leaving the Vacuum Company was discussed to some extent; we talked the matter over.

From September, 1883, to the spring of 1884, I was living in Buffalo, but without any particular occupation; my wife and daughter were with me; we were keeping house; during all that time I think I was entirely idle; it seems to me I worked a short time for a railroad company, that was only for a few weeks. During that time I don't think I went into the office of the Buffalo Lubricating Company twice; perhaps I did; I don't think I did go to their office in fact; I never went to their works at that time.

Q. Can you say from what your support was derived during this time from September to the following spring?—A. I had money.

Q. Money that you brought with you from California?—A. My wife had money; yes, sir; I paid for my living out of the money we had.

Q. You had no source of income besides that?—A. Why, yes, we had a house that was rented; that brought some money in. In 1884 I went to work for the Atlas; I think I staid with them two or three months; I would not be positive how long. I saw Mr. Southard to get employment there; I was not acquainted with him already; I gave him no references to anybody, and he didn't require any; I took charge of a lot of men that he sent from their other works to tear down these works; that lasted for two or three months; I think I next went to Cleveland; I think it was in March or April, I would not be certain about it; I am mistaken about that, it was in June or July that I went to Cleveland; it was shortly after my leaving the Atlas; I was employed there by the Cleveland Refining Company; I staid till they burned out; I don't know whether it was in August or September. The next place I went to was Clark & Warren's, in Corry, where I have been ever since in the capacity of general workman around the works, doing the pipe fitting, as they call it, and steam fitting, and in the capacity of foreman in one department; I had been introduced to Mr. Warren before I went to Corry; I think it was at the Phoenix Oil Refinery, in Buffalo. When I came up to Buffalo in pursuance of the invitation from Matthews, I think I

went direct to his office before I went to see these other parties; and there in the talk with Matthews, there was conversation about some suits between the Standard or the Vacuum and Buffalo company; I don't remember whether they were patent suits, or whether he was about to commence suit or what; I think both were said; I think he told me that they were patent suits brought against them; I think I told him that I didn't see how the plaintiffs could make anything out of those suits; I think I might have said so; I never thought the patent was any good; I never did; I talked with Mr. Everest about it. At the same time Matthews said something to me about the Buffalo company bringing a suit against the Everests. I think he did at that time; a suit for damages for some thing or other; I don't think he asked me what I could do to help them in that suit; he asked me, I think, if he brought suit against the Vacuum Company, if I would—if he wanted to use me as a witness, if I would be one; I told him I would.

Q. And he told you that the suit he was going to bring against them for damages was for trying to injure their business, and selling inferior oils or something, for loss they had sustained by taking away and intimidating their customers, and one thing and another; was not that what he told you?—A. Something similar to that; I don't remember exactly as that is the words; I don't remember all that I said to that; I don't remember of saying any such thing as that I thought I could help him a good deal about getting damages from the Everests; when he suggested to me to go out with him and talk the same matter over with the lawyers, I think he asked me to go and see a lawyer with him, and I did; I think the gentleman is now a judge; I don't remember the name; I think it is Judge Corlett; I would not be positive; I don't remember whether it was Corlett; whoever was counsel at that time for the Buffalo company; I went to the lawyer's office with Mr. Matthews and talked the matter over with all three together, and immediately after that I obtained employment at the Phoenix Oil Works; I went to work immediately after, but I don't know whether I made any arrangement, before we went to the office to see these lawyers, with the parties or not; that I don't remember; I could not say it was just before, or just after; it was just about the same time.

I say that before I came East from California, I had never had any communication with any of the Buffalo people about the bringing of suits for damages against the Rochester people, direct or indirect. When Mr. Matthews spoke to me about proposing to bring a suit for damages, I don't remember that he said any amount that they proposed to demand as damages from the Rochester people; he might have said, but I don't remember now of his saying any amount; he might have said a hundred thousand dollars; so far as I can at present recollect, that is my impression. Nothing was said by him to me on the subject of any interest that I would have in the result of such a litigation, nor never since.

After I left this State to live I came back here, I think, about five or six times, for the purpose of conferring with the Buffalo people or their lawyers on the subject of this litigation.

Q. There were five times that you came in order to testify in this litigation, and you came about five times for the purpose of conferring with them, you think?—A. I don't think I came about five times. I think I came two or three times that I came down that they did not do anything—it was put off or postponed. I came intending to testify, expecting to; I understood that I could not be compelled to leave my residence in Cleveland or Corry to come here to testify in any of these cases; I understood that I need not come unless I was a mind to; I had a mind to come because I told Mr. Matthews I would; I don't know when I told him that I would come; I think it was before I went to Cleveland that he says, "If I want you, will you come?" I told him I would; I didn't tell him I would come as often as I was wanted; I told him that I would come; that is all, I think, that was said; I don't think there was anything about coming often; I paid my own expenses when I was coming all these times that I came, I received something before I got away, usually; I got my pay for my expenses; I never got much pay; when I came for Mr. Matthews my expenses were paid by him; when I came for the district attorney they were to be paid by him; I know that my wife got money at different times to pay our expenses; I don't think that I have ever received very much; I don't know the amount; I do not, of course, know what amount she has received.

Q. When you parted with Mr. H. B. Everest in California to come East, what did you tell him that you thought your services were worth to keep out of the oil trade?—A. We were talking one night at his house about that, and I was talking about it this time that he was about to write these parties. He says, "What do you consider your services worth, or that we had ought to make up to you?" something of that kind; I says, I don't know whether it was \$5,000 or \$10,000; I don't know what I said. I don't remember exactly what I did say.

Q. But that you thought merely to keep out of the business was worth \$5,000 or \$10,000 to you, or to them, which did you say?—A. I did not think to keep out of the business, that was not the way I put it. I put it in this way, to make up what

I had sacrificed and lost. It was not to be kept out of the business at all, as I understood it. It was merely to make up losses that I had been put to in this transaction, as they led me to believe all the time that they were going to—I don't think he asked what I considered my services worth to keep out of the oil business; he may have asked me, but I don't remember that he put it in that way. I may have said to Mr. Everest that I thought it was worth \$20,000 in cash for me to keep out of the oil business, but I didn't so construe it at the time that my services was worth that; I don't think I said so; I may have said so, but I don't think that I told him my services was worth that much to keep out of the oil business; I don't think I put it in that way. At the time we left the Vacuum Company, I don't think I made any effort to induce other employees of that company to come away; I don't think I asked anybody directly to come; I asked one man, Mr. Patterson, I says, "We are going to Buffalo and go into business, and if we get so we need your services, and you can better your condition, will you come?" I don't know whether that was after or before we had announced to Mr. Everest that we were going; I think it was after; I was around the works more or less after we made that communication to Mr. Everest; I continued to live in the Everests' house till I moved to Buffalo; I don't remember of saying to Mr. Patterson, about the time of our leaving, that the Standard and Vacuum Companies would give the Buffalo people almost any amount of money rather than let them build; I don't say that I didn't say it; I don't remember of saying any such thing; he told me at the time this conversation took place that he would not leave the Vacuum Company; I didn't at that time say to him any such thing as this, "By God, I will make it just as hot for you as I can; I will take Gable and every other good man on the place, and then see how you can make it go." I do not think I said anything of that kind; I don't remember anything of that kind; I don't think I said it; I will not say that I didn't say something to him; I don't think that there was any hotness or anything of that kind to him; I may have said something to him, but nothing in that language; I may have said something to him, but not about anything similar to that; I don't remember; I don't remember of trying to induce anybody to leave the Vacuum Company to go to Buffalo; I might have asked August Gable to leave the Vacuum Company to go to Buffalo, might have asked him if he would go or something of that kind; I don't remember whether I did or not; I might have asked him; I live on Pleasant street, in Corry; I rent a house of a man by the name of Clemons, I believe, and keep house; I understand he lives at Hartford, Conn.; I have never spoken to him only once or twice; I think I saw him and spoke to him two or three times before I rented of him; he was living at Corry then; his name is Henry D. Clemons; I think I have seen his son Edward, a boy of eighteen or nineteen; it seems to me I have spoken to him, though I don't know that I have; they were both living in Corry when I rented the house; that was two years ago this spring, I think, in April; at that time he was living at the corner of Pleasant and Northwest streets, in Corry; I called at his house there about the 13th of April, 1885, in order to engage the house; I saw him and his son Edward at the house at that time.

Q. Did you, at that time, speak to him, not only about renting there, but about buying the house and lot?—A. I think there was something said about buying—that I might; I don't know but I asked him the question what he would take for it, if he wanted to sell it I might want to buy it, something of the kind, I don't remember; perhaps I did; I don't think I said anything there about the means which I would have of paying for it; I had means enough to pay for it without saying anything about it.

Q. Did you, at that time and place, say to him this, or this in substance, that you were connected with the Buffalo Lubricating Oil Company; that they had commenced a suit against the Standard Oil Company for \$250,000?—A. Never said any such thing, that I was connected with the Buffalo Lubricating Oil Company.

Q. Or that you were connected with that suit?—A. I don't remember of saying anything about being connected with the suit, because they had not commenced any such suit; I believe they had commenced one suit at that time; I did not say that, or that in substance, which you have just asked me.

Q. Did you, at that time and place, say to him that the Buffalo Company had already got judgment against the Standard Company in one suit for a large amount, and that they were sure to win?—A. I don't remember of saying anything of the kind; I don't remember; yes, I say I didn't, or that in substance. I never said to him, nor anybody else, that I would receive, as my share of the judgment to be obtained in the \$250,000 suit against the Standard Oil Company, not less than \$40,000, nor that in substance, to him or anybody else, that I would receive a cent. I never said to him or anybody else, in connection with the purchasing of his house and lot, that I would soon have money enough from the judgments already obtained and to be obtained against the Standard Company to pay for it, and much more, or that in substance. I called upon Henry D. Clemons on or about the 27th of April, 1885, at his place of business, in Corry. At that time he and I executed a lease of the

premises. I didn't then and there, or at any time, make to him statements in regard to which I have already been asked, or those statements in substance, or any of them. I didn't add to them that pending those suits I was obliged to seek employment elsewhere than in Buffalo.

(Witness is shown paper.)

Q. Is that the affidavit which you testified on your direct examination, that you subscribed and swore to in California?—A. That is my signature.

Q. And you swore to it then and there?—A. I think I did, before E. Conway, notary public.

The paper was offered and received in evidence as defendant's Exhibit I.

DEFENDANT'S EXHIBIT NO. 1.

STATE OF CALIFORNIA,
County of San Bernardino, ss:

AFFIDAVIT.

The undersigned, Albert A. Miller, of Rochester, N. Y., makes this statement regarding the following named and described patents:

M. P. Ewing, improvement in materials for lubricating. Dated September 11, 1866. No. 58020. Re-issued under date September 26, 1876. No. 7322. Hiram B. Everest, improvement in apparatus for distilling petroleum. Dated September 3, 1876. No. 68426. Hiram B. Everest, improvement in determining the grade of lubricating oils. Dated March 7, 1876. No. 174506. Hiram B. Everest, improvement in the distillation of oils. Dated March 4, 1879. No. 212914. That I am well acquainted with the processes, improvements, and manufacturers of petroleum, as described in the above-named patents, and that I am cognizant of the fact of their infringement by the Buffalo Lubricating Oil Company, Limited, of Buffalo, N. Y., and that, so far as I know, the same are good and valid patents.

ALBERT A. MILLER.

Subscribed and sworn to before me, this 11th day of August, 1882.

E. CONWAY,
Notary Public.

STATE OF CALIFORNIA,
County of San Bernardino:

I, A. F. McKenney, county clerk and *ex-officio* clerk of the superior court in and for said county, hereby certify that E. Conway, whose name is subscribed to the foregoing instrument, was, at the date thereof, a notary public, authorized to administer oaths, etc., and all his official acts as such notary public are entitled to full faith and credit, and I verily believe that the signature attached to said instrument to be his signature.

In witness whereof I have hereunto set my hand and affixed my official seal this 12th day of August, 1882.

A. F. MCKENNEY, Clerk.

By S. M. WALL, Deputy Clerk.

Q. These are the only patents that you have known of as owned or used by the Rochester people, are they not?—A. I think they claim some other patents—Mr. Everest did; I think he claimed a patent on a process for applying steam to the oil; also, I think he claimed another patent on a method of fire-testing oil.

Q. The patent for determining the grade of lubricating oils was the fire-test patent, was it not?—A. I believe it was—yes, sir; the patent for the use of steam was the patent for the improvement in the distillation of oils; that is what he claims; so then these patents are the ones that I understood they relied upon in protecting their property, and these are the patents which I was of the opinion were not good for anything.

Q. And they are the patents in regard to which you, in August, 1882, declared, and swore, in the presence of the ever-living God, were good and valid patents, so far as you knew. They are the same, are they not?—A. Well, I don't know whether those are the same ones there; so far as I knew—of course, I didn't know whether they were good—I—

Q. Will you be kind enough to indicate what the patents were that you have said to-day were good-for-nothing patents?—A. He claimed a patent on the method of manufacturing seal oil, a seal lubricating oil; he claimed this method of applying steam to petroleum; his patent that he claimed was a good patent; we talked it over a number of times; I says: "If it is good, why do you not sustain it? Why do you allow other people to do it?" I do not say that that is not one of these patents mentioned here; I don't say it ain't; at the time that affidavit was made in the office, Mr.

Everest got considerably frustrated; when I swore to this affidavit I believed it to be true; I was a good deal excited at the time, and I don't hardly remember of his reading it; I signed a number of papers there; I don't think I swore to only that one; I don't know whether that is the paper I signed and swore to, or whether some other paper was signed and that swore to; I don't know how it was; I don't remember the reading it over to me even; I swore to it, however; I swore to it, I think; it is true that I swore to it, yes, and I don't dispute that the statement was true.

Q. And you were then personally cognizant of the infringement by the Buffalo company of all these four letters patent?—A. Not all of them; no, sir. I think the 11th of August, 1882, was the same day that we settled up—that I settled up with Mr. Everest.

Q. At the time of this parting conversation with Hiram B. Everest in California, after you named to him the sum of \$5,000, \$10,000, or \$20,000, did you say to him that it would cost the Standard \$50,000 before they got rid of you?—A. No, sir; not that I remember of; I don't remember that I said anything about it costing the Standard Oil Company any money, or the Everests, or the Vacuum Company; I don't remember saying anything of the kind; I didn't say anything about it costing the Standard Oil Company any money; I say that I didn't say anything of the kind, or the Vacuum Company, or the Everests; I had nothing against the Everests; I know Fred. G. Saxton, of Corey; I am pretty well acquainted with him; A. G. Mack was the commander of the Eighteenth Battery, in which I was a soldier during the war; I knew of him at Rochester before the war; I was not personally acquainted with him; I don't know where he lives.

Q. Did you, at Corry, about the 13th or 14th of December, 1885, say to Saxton and Mack, or either of them, in Saxton's Arcade Saloon, in Corry, this, or this in substance, that if you had remained with the Standard Oil Company, instead of going off with that Buffalo gang, you would be worth \$35,000 instead of nothing?—A. I told him if I had remained with the Buffalo Lubricating Oil Company I would never have said anything about—

Q. That you would have been worth \$35,000 instead of nothing?—A. Probably; yes, sir. I didn't say what you asked me; I didn't say that if I remained with the Standard Oil Company or the Vacuum; I didn't say to them, or either of them, that it was the mistake of my life leaving the Standard or the Vacuum, that I was bound to go there again; never said any such thing, nor that in substance, nor this (holding out my hand before them), "Here is a palm, black and rough, and itching, the party that fills it the fullest can get it and me; never said anything of the kind.

Q. Did you, at that time and place, turn to Captain Mack and say this, or this in substance, "If you have got any proposition to make, now is your time?"—A. I told him, at my house, never at any other place, or in the presence of my wife.

Q. Did you, shortly after testifying before the grand jury, in Buffalo, say to Saxton, at Corry, this, or this in substance, "That suit at Buffalo is a damned humbug, but there is some money in it, and you and I may as well make it as any one else?"—A. Never said anything of the kind to him. When Bristow went to Buffalo, I understood what the purpose was of his going; it was to find out how the stills were constructed, to get samples of oil, see the oil test, see what they had there and how much they had; and it was to find out also by what processes we were doing the work; I understood it was in case they wanted to use him as a witness in the patent cases; when I was at New York, at the Union Square Hotel, with Mr. H. B. Everest, I can't say whether the gentleman was already with him when I got there, or whether he came in afterwards; I remember of his introducing me to a gentleman; I think the name was Rogers; I am satisfied in my own mind that that was the name; I was examined in regard to that transaction in March, 1886, before Mr. Thornton; I think I testified thus: "I believe there was a gentleman with him, when I first met him, or he came in while we were talking before I sat down;" that was according to the best of my recollection at the time; in answer to the question, "Who was he?" I said, "He introduced him as Mr. McGregor;" but I corrected it afterwards at the close of the testimony on the following day; at the examination I made a mistake in the name.

Q. How long had you known Mr. McGregor?—A. I never knew him until that time; I knew of him.

Q. Till that time?—A. Yes, sir.

Q. Did you know him at that time?—A. Why, after I was introduced to him.

Q. So then, after you were introduced to him there you knew Mr. McGregor, and carried the name in your mind?—A. Yes, sir.

Q. In March, 1886, upon your examination, after you said that introduction, he asked, "Are you sure of the name?" and did you answer, "I should say to the best of my recollection that was his name?"—A. What?

Q. Never mind what; were you asked that question, and did you make that answer?—A. I may have made the answer, but I found—

Q. You will not say whether you did or did not make that answer?—A. Well, I don't remember; but I found a memorandum that put me in mind of his name.

Q. You found the memorandum afterwards?—A. Yes, sir.

Q. So you can not remember the name, but you made a memorandum?—A. I could not remember all the men that I was introduced to.

Q. But you at first testified, under examination by Mr. Moot, for the plaintiff, "He introduced him as Mr. McGregor," and then, in answer to Mr. Moot's question, "Are you sure of the name?" you answered, "I should say to the best of my recollection that was his name," did you not?—A. I said that according to the best of my recollection.

Q. And yet, at that time, you neither knew Mr. Rogers nor Mr. McGregor?—A. I knew of them.

Q. You knew of them?—A. Yes, sir.

Q. If he was not actually in the room when you came there, he came in before you had taken a seat?—A. I don't remember. He might have been in the room, and he might have come in afterwards, or he might have been sitting down; I don't remember, as I know of. In March, 1886, I perhaps testified thus: "I believe there was a gentleman with him when I first met him, or he came in while we were talking, before I sat down." According to the best of my recollection at that time it was true. I don't know as my recollection upon this subject has changed since March, 1886. He said there a very short time; I could not say how long.

Q. And then was there any more conversation than this Mr. Everest said, after he introduced him, "This is the gentleman I spoke to you about," and then this gentleman (Rogers or McGregor) said to Mr. Everest, "If you do not go to Boston to-night," and then turned to you and said, "I will see you again Mr. Miller," or words to that effect; was not that exactly what occurred?—A. I do not remember. According to the best of my recollection, something of that kind was said.

Q. That was just the way it happened, was it not?—A. I could not swear positively. It was, according to the best of my recollection.

Q. Did you not swear positively to that in March, 1886, under examination by Mr. Moot?—A. I think I did.

Q. According to the best of your recollection to-day, that was exactly what happened, was it not?—A. There is so much of it that I can not remember everything. I have to say it so many times that I can not repeat the exact words every time for about four or five years. I give as nigh to it as I can remember.

Q. That, then, is, according to your present recollection, just what took place at that time, is it not?—A. As I remember, just as I have stated before.

Q. Was not this, according to your present recollection, just what occurred after the introduction of this gentleman: that Mr. Everest says, "This is the gentleman I spoke to you about;" that then he said to Mr. Everest, "If you do not go to Boston to-night," and then, turning to you, he said, "I will see you again, Mr. Miller," or words to that effect?—A. I think he said so. I think he said, "I will see you again." I do not think he turned to me particularly. I think it occurred the way I have stated.

Q. And did you so testify on the 25th day of March, 1886, before Mr. Thornton, in Buffalo, as I have now asked you?—A. According to my best recollection, I think I testified that way.

Q. What room of the hotel was this in?—A. I think it was in the reception-room or office. It was the public room of the hotel; and I think we remained standing. I have told all that passed, according to the best of my recollection, while we three were there together. After that conversation the gentleman immediately left. After that Mr. Everest and I had dinner together, I think. Then Mr. Everest, for the first time, suggested that I had better go to Boston with him. On my direct examination I testified that in my interview with H. B. Everest, shortly before I left California, I testified that he said he would write Archbold.

Q. Are you sure that he said he would write to Archbold?—A. He might have said he would write to these parties; I think, according to my best recollection, he said, "I will write to Archbold," but I am not positive.

Being further examined for the prosecution, the witness testified:

I am entirely willing Mr. George Truesdale shall state in this court what took place in the office there on these two separate occasions of which you have spoken; if he is here, I would like to have him state what occurred, and I withdraw any legal objection that I might have.

The second time I went to work for the Vacuum Company, Mr. Everest said he would like to hire me for a year; I said, "All right," and made arrangements for pay; he said what he would pay me 25 cents an hour, I believe it was; I went to work that year; I didn't have steady work all that year, but I went back again, when they wanted me; they sent for me and I went back and continued to work in that way from year to year with them; sometimes we drew our pay by the week, sometimes by the month, and sometimes I had a book, and went and got my pay when I wanted it; they figured part of it by the hour, and part of it by the month, and the way was, I was to have so much an hour or per week, and then there was an addition to that of

\$100, and then another addition of \$100 more; these additions of \$100 were along about the last two or three years; the addition was \$100 a year; I could get it at any time; I had interviews with Mr. Everest; I used to talk with him about once a year; I would say, "Well, this year is gone by; suppose you will want me any longer?" He says, "We will want you just as long as we want you: when you get ready to go, you can go, and when we get ready to have you go, you can go;" that is the way that it went from year to year. That is what he said, "You are not obliged to stay, and we are not obliged to keep you, or any thing of that kind." I don't remember of ever anything being said that I should stay a year or more. "We want you to stay," that was always the talk every time we had talk about it.

I got some castings made by J. E. Jones & Co., of Rochester; they were what were termed "headers;" they are a round piece of iron, probably 3 feet long, with six or eight holes bored in them, simply a piece of cast-iron about 3 feet, perhaps 3 feet 6 inches, and about 6 or 8 inches in diameter, the pipes screw into; I could get them made anywhere; there was no patent on it that I know of; it is a thing that has been in use; the entire cost of these castings was about \$9.50 or \$10; I don't know what it would have cost to have made the patterns, probably a dollar or two dollars, maybe 75 cents; I don't know; I went right there in the daytime and ordered castings made; when I wanted them I went there, and, I believe, paid for them and had them taken away, or took them away myself; I could have made the patterns myself or have had them made; there was no patent or any restriction to my doing it, to my knowledge; there was no patent on any such thing as that, simply a piece of cast-iron generally used throughout the country; there was not anything said there by me to Jones, that I remember of, to keep quiet about it, or anything of that kind.

When I came up here to Buffalo, while I was in the employ of the Rochester company, to look after some land, I think, I was only absent one day from the works at Rochester; it might have been two; I don't remember. It was Mr. Outerbridge and Mr. Everest and Beach that told me to come up here and offer my services to return to the Buffalo Company; they said that that would be a good way to get out of it; Mr. Everest said, "You had better go up there, but I don't know what to do about your stock;" and I said, "What will I do with my stock?" "Well," he says, "I don't know what you had better do about it;" I says, "Maybe you had better buy it," and Mr. Everest turned to Mr. Beach and asked him what he thought about buying the stock; Beach said it would be a good idea, if they owned my stock, they could have access to the company's books, that it would be a pretty good scheme, and C. M. said, "I don't know what to do about it;" he says, "I will consider it;" he says, "You go and see Outerbridge and he will tell you what to tell them." Beach is a man connected with the Vacuum Oil Company, book-keeper or corresponding secretary, or something; I think he was secretary at that time; I can not say positively.

I went to see Outerbridge; he says, "We will go up there, and you offer your services, and tell Matthews that you are ready to go back; of course he won't accept you; I know that he probably don't want you any more, but you tell him that." He says, "That will be a pretty good way of getting out of it for you, and if he accepts you, all right; you take the position and go to work." This is what Outerbridge told me to say and do. Outerbridge told me to demand a statement of my account; if he refused to accept my services, to demand a statement of my account. We came here, and I done so. Before coming up here Everest says, "If they accept your services, go to work for them." I don't remember at present anything further being said what I was to do. I came to Buffalo and got a position with the Phenix Oil Company; I think I staid with them five or six months; it was in the fall of 1882 that I got back from California; I think it was in March, 1883, that I went to work for the Phenix Company; I was in the employ of the Atlas Oil Company; Mr. George S. Southard was its manager. The Cleveland Refinery Company was destroyed by fire.

I was down here about two weeks ago, when this case was about to be tried, and at that time I got an order from the court to pay my actual traveling expenses; Mr. Matthews never paid me a dollar except for my actual traveling expenses and the time that I was docked by my employers in Corry.

At the time I made this affidavit I understood by Mr. Everest that there was other patents that he owned besides those mentioned in it. I understood that he had a patent for the manufacture of what we called sweet oil; that is the one that he always claimed was the biggest, was one of his greatest patents. I believe I understood that that patent was named here in that affidavit; I think that is one included in the affidavit; he had patents, as I understood, covering the vacuum process and covering the manufacture of sweet oil, no matter by what process. I don't know how many patents he had that are not mentioned in this affidavit.

(Counsel presents Ex. No. 1 to witness, who examines it.)

I think there were other patents not mentioned in that affidavit. He had a patent on a harness oil, I believe, or claimed to have, at least; I don't know whether he had it, he claimed to have a patent copyright on label; I don't remember whether I un-

I signed my testimony taken
was written on the foot: "I
the word 'Rogers' in place

etified as follows:

at Corry. He had been em-
teen years, maybe, prior to our
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oy of the Rochester Company
p in the company's house on
the 5th of April, 1881. We
iving with us, came with us
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band was about a week or two
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the first time we went there
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st how long after that before
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om home sometimes; he would
stay long; I can not tell about
ak three or four times when we
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ome employed at the Buffalo Lu-

Everest in his office; I can't
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Buffalo Lubricating Oil Company,
nto money; it was in my hus-
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ation; he said to sell it, to give
d.

ing how they were to ruin the
y how; I had no conversation
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that it could be sold; give

"I don't remember.

"I was mad at Al. at the
test; they were deeds and
package of papers in my
Mrs. Miller, if you are not
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saw them the next day; I
r. Truesdale's office; I can
think; I stayed in Rochee-
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ern Union, I don't know; it
as to me it was; I can not
was two or three weeks be-
I saw C. M. Everest in the
house; I asked him how
where he was; there was two
ink that was about all the
Charley said he would send
and gave it to Charley; I
Everest; he said he would
answer to this letter; I think
Al. sent the letter; I would
in some way; I found out
weeks after my husband had
to me, I suppose from his

and received in evidence as

"BOSTON, July 5, 1881.

Miller, at \$1,500 a year, to
vision to quit, we give him the
can pay him as he shall di-
Rochester, or some other place;
it. He will assist Reynolds
ink he can purchase second-
Charles Becker shall go up to get
from Mr. Williams yet? I
and Stonington Line, to-night.

"PAPA.

York draft to order of Rey-
which you may forward."
three weeks before I saw him; he
long ago I do not remember;
his office; once at Mr. Trues-
Mr. Truesdale went over to
remember what took place
property, our property, but I
that was said, I do not remem-
as to go to these real estate
is as high as I can get at it;
also told me to go to Mr.
it; he is a Rochester man;
told me to go to him and ask
I went; Charles also ad-
him write the list of real
think; he handed it to me;

think he took any of my papers, or.

personal, or both, or disposed of? (on the ground that it was income and the defendants excepted.) I got \$1,800; that is what they got. Property I did not sell; I don't know in the sale of my property; I went to any real estate agent; he gave me a list entire of the times while in Boston before he came to him; I learned his address

when he returned the first time; I had a man from Boston; I asked him if he knew him; he said, "yes;" he came to my home, I couldn't say for sure; I don't know if he stayed a week, or maybe I don't remember how long; the Everetts were here while I was feeling sick, and I came and read a letter that his wife wrote to one that has been read (Exhibit 1) \$1,500 a year; it was while I was in the hospital; I think he was there for a long time; I had with him at my home maybe two weeks, I can not remember conversation with C. M. Everett; I don't know, did not want to know, did not want to know while my husband was gone; I don't just remember how long Al. was in the fall, late in the fall, he got out of the fall; I never saw him but

he was in the money in Rochester while my husband was gone. When my husband came back, I don't remember how long, I don't guess he drew his pay, he had been in the money for months he was doing nothing; he came up and down from Rochester as he was in the money, don't remember; sometimes he was up there in the winter of 1900, he was in the Vacuum Oil Company. Before he came to the C. M.; I went down to the office, his private office, and asked him if he couldn't, that I didn't want anything that he knew that I didn't want him to go, I don't know if he ever worked in an oil works; I don't know if he could give him something to do; I don't know if he had nothing else to do; I don't know if I do not think there was anything to do with him about California; I don't know if he was in the company; Al. was to go because of the company, and if he did not like to go, I don't know if he was in the company a month there, and I draw a salary of \$1,000 a month, so, of course, I consented to go in August, I think; during that time, the Vacuum Oil Company at their headquarters was gone. I don't think I saw him until he came and told me that he was in the company; I lived on Plymouth avenue; I don't know if he was in my neighbor's house, Mrs. White, on the corner of the gate to speak to him; I don't know if he was in the gate to speak to him; I don't know what to think of it, and of course, I did not know what to do; I don't know if Al. was in California at the time; I can not remember anything about me and my daughter, he was in the money in regard to what I should do, I don't know.

I drew money of the company the first of the month, and I don't think I drew it but twice, it seems to me, when he was gone; I don't know just how often, but I think it was twice; the first of the month was pay-day; I don't think there was but two pay-days while he was gone; I don't remember just; two or three; I went the first of every month and got \$75. After Al. came back he stayed in Rochester about two weeks, I think, then went back to California, and I went with him; we remained there till January, 1883; I saw H. B. Everest in California, at the depot at Colton; not when we arrived or departed; I went over to the train one night, or one afternoon, I saw H. B. Everest; he said he was going to Los Angeles; I don't know as he saw me, but I saw him; I had no talk with him; I had no talk with him while I was in California; then we returned from California to Rochester; Al. then went to work in the Phoenix Oil works in Buffalo; we moved up here; Al. continued to work for them till down to the fall. About in the summer of 1881 Charles Everest, or H. B. Everest, gave me money in the Vacuum Company's office in Rochester to send up here to the Buffalo company and get samples of their oil and send them to our address in Rochester; he told me to send Truman Miller, my nephew, up here; he was not at that time in the Buffalo works; he was living in Rochester; I don't know as he was employed; I gave him the money; Mr. Everest did not tell me what he wanted of the oil, he did not say what for. I am living at Corry, and have been here to Buffalo a number of times with my husband..

Q. Did Mr. Matthews ever give you a dollar, except for actual expenses, and the time that Al. was docked while he was here?

(To this the defendants objected as incompetent and immaterial. The objection was overruled, and the defendants excepted.)

A. No, sir; he never did. While my husband was in California, he sent for \$1,200 to pay for some property. I talked it over with some one, and I thought I would not send him but \$600 and let Mr. H. B. Everest take a mortgage for the other six hundred, and pay it out of his pay; so I sent \$600; none of this money that I had drawn from the Vacuum Company while Al. was gone.

On cross-examination, the witness testified: Before I removed from Buffalo, on the 5th of July, 1881, I don't just remember how many times I had been to Rochester to see either of the Messrs. Everest in regard to my husband returning into the employ of the Vacuum Oil Company; I don't think I told in my direct examination just the times, just the number of times; I can't remember the times of everything; three or four times maybe; I guess two or three times; I think so. The first one before I removed was along in June; in the middle of June, I think; I don't think I went down until in the middle of June; along in June; between the middle of June and the 5th of July, I think. I went two or three times; I can't just tell. After I thought we were going to lose everything I was quite anxious to return to Rochester; not till then. I was born in Rochester and had lived there all my life; I had never lived in Buffalo, and had no acquaintances there; all my relations had been in Rochester, social, church, and everything of the sort; Mr. Miller had lived there for a great many years, and had never lived in Buffalo, as I understood. I was not home-sick in Buffalo till I was going to lose what I had, then I wanted to go. I recollect meeting Mr. H. B. Everest at Mr. C. M. Everest's house, at Rochester.

Q. Now, upon that occasion, the first time that you were in Rochester and saw Mr. Everest, you went to Mr. C. M. Everest's house, did you not?—A. I think I did, the first time I saw him; I don't know; come to think it over, I think the first time I saw him was in Truesdale's office, but I do not just remember so much of it; I think the first time I saw Mr. H. B. Everest on this subject at all was at Mr. Truesdale's office; I am not really sure.

Q. Don't you recollect that you went to Mr. Everest's house, and that H. B. was there, and that you saw him in the parlor and asked him to do what he could to take your husband back into the employ of the Vacuum Oil Company?—A. I did not; I never asked him to take him back. I recollect going there; I recollect I felt bad because I was talked to so much about it; I had reason to feel bad; I am trying to tell the truth as high as I can remember. I don't remember I shed tears; I did feel bad; I don't think the occasion of that bad feeling was that Mr. H. B. Everest was using reproachful language for my husband's having left the employ of the company in the way he did; it was because I thought we were going to lose everything, and would not have nothing left; that was what I felt bad for, was shedding tears for, if I did; I don't know as I did. I knew if I got my property into money the creditors could not take it; that is what I was advised by them; I did not understand law; I took their advice, giving Mr. Truesdale power of attorney; got some of it into money; some of it was sold—the mortgages; the real estate was not sold at all; I stopped him selling it; I thought there was too much expense on it. I only saw Mr. H. B. Everest once at Mr. Truesdale's office; I saw Mr. C. M. Everest there another time; he came to see me; I think it was before I removed to Rochester; I could not say just—I think it was before I removed; no, I did not see him after I moved to Rochester, I don't think; I think it was before; I wouldn't be certain.

Q. The power of attorney to sell that real estate was given on the 23d of June, and the power of attorney to sell the mortgages was given on the 27th of June; now, do you think you were down at Rochester afterwards, and before you removed?—A. I don't just remember.

Q. I understood your testimony on your direct examination that this conversation at Mr. Truesdale's office was after your husband had gone to Boston, and after you had removed to Rochester.—A. Well, it seems to me that it was sent to my husband; I think it was, and Mr. Truesdale went over for me; I think it was after I had gone to Rochester; I ain't certain. I did not see Mr. H. B. Everest and Mr. Charles M. Everest at Mr. Truesdale's together but once; it seems to me it was after I removed to Rochester that I saw either of them at Mr. Truesdale's, I wouldn't say for sure. I don't know how long Mr. C. M. Everest had had the letter from his father (Exhibit G) before he read it to me; I don't know whether he said he had just received it or not; he came in there to my house, on Plymouth avenue, and read the letter to me; my house was not then close by the works; I did not go back into the company's house after I moved to Buffalo; I moved into Mr. White's house, on Plymouth avenue; I don't think that after that letter was received I knew just then my husband's address; it was longer than two weeks that he was in Boston before he returned to Rochester; there was two weeks that I did not know where he was; I think I must have been back in Rochester a month or six weeks before he returned there the first time; I do not just remember. After he came back from Boston the second time he was quite awhile around doing nothing; a little while, it must have been, maybe, two months; I don't know just how long; I can't remember just how long it was; I know he was longer than two months doing nothing; I can't tell just the time; I know it was a good while; I did not urge my husband to return to Rochester.

Truman Miller, who assisted me in moving from Buffalo, is my husband's nephew; he boarded with me at that time, and was in the employ of the Buffalo Lubricating Oil Company.

On further examination for the prosecution, the witness said:

I don't think my husband and I went to see Truesdale before the occasion when H. B. Everest was present; no, sir; I did not; I executed Exhibit B there in Mr. Truesdale's office; that was not the occasion when the Everests were there; I had been there before with the Everests, before this paper was executed.

JOSEPH S. STEARNS, a witness on behalf of the prosecution, testified:

Prior to three weeks ago I lived at Cambridge, Mass.; I have been in the oil business; I know Charles M. Everest; made his acquaintance in 1882, in Boston; the Vacuum Oil Company had a place of business in Boston, at 51 Purchase street; William A. Root was in charge of it, when I first knew of it, as manager; in February, 1882, Mr. Root and Mr. Charles Everest employed me for the company; I have met Mr. H. B. Everest lately right here; I never knew him before; the business carried on in Boston by the Vacuum Oil Company was selling lubricating oils to factories, railroads, anybody that wanted it, dealers, or anything, and some illuminating oil; I was first employed to go amongst factories, around in different counties where I traveled; it included railroads; I remained in their employ from then until the fall of 1882; I can only give a rough idea of the extent of the business of the Vacuum Company of Boston; some roads would buy 20 barrels, some 90 to 100 at a time; there were quite a number of men in the employ of the company, selling; I could not say how many; I received oils from 51 Purchase street; I suppose they were shipped from Rochester; I don't know that; I made reports of sales to Mr. Root in Boston, one to the Vacuum Oil Company in Rochester, one to Mr. Waring in New York; I think it was 44 Broadway; I wouldn't be sure; I don't know whether that is the Standard Oil Company's office; I don't know who Mr. Waring is; Mr. Root instructed me to report to him; his first name is "O. T."; I don't know what the "O." represents; I had forms upon which to make reports every day; my reports were not acknowledged from the New York office; I have been at the New York office; I met Mr. Charles Everest there and the other gentlemen in the office; I can not remember any of the names; I could tell if I heard them; I had letters from the Rochester manufactory once in a while; I never addressed my New York reports to anybody but Mr. Waring.

I had instructions from C. M. Everest in regard to the sales of these oils; the Buffalo Lubricating Oil Company had an agency after that in Boston; while I was connected with the Vacuum their oils were being sold there; when I was first hired Mr. C. M. Everest told me to get all the trade I could; then at different times, for some time on, we would have talks about different things; then, after awhile, Mr. Reynolds, who worked with us, left, and I was put in his place; Mr. Reynolds took charge of the Buffalo Lubricating Company in Boston; then he went around to customers that he had been selling to, and some that I had, and cut the prices down, and I went around and cut the prices farther; Reynolds went around first and cut the prices; Mr. Everest told me to put the price down, but not to lose any money, just as low as

I could get it, that is, to follow them down, if they came down to follow them down, and get the trade and protect it; that was all, only not to sell at a loss; he told me to tell the customers that the Buffalo Company were using their patents. Some time during the time that I worked for them, I think it was in substance, Charles Everest told me that the Buffalo Company were a concern that had started and had \$40,000 capital, \$25,000 paid in; he didn't think they had a great sight of money; something of that sort; I couldn't swear just positive what it was; I believe he said they would not last a great while, a few months, three or four months, six months, somewhere along there; I couldn't say for certainty for that; that is as I recollect it, I think; he might have said that he would give the Buffalo Lubricating Oil Company just thirty days to live, but I couldn't say positive; I think he told me to say to customers that the Buffalo Company were using their patents and had no right to make their oil; "using their patents" I could swear to, the other I could not; I did use these arguments to the customers; he further said that the crude oil from which the Buffalo oils were made was not as good as theirs; I don't know as he said directly that they were using dipped oil, but I took it that way; Mr. Everest came to Boston; I showed him a sample of the oil that we had in a bottle, and he told me that it was not good; I turned it upside down and there would be black specks all over the bottle inside; take it and rub it over your hand, and it would be dirty and black; it didn't have a good smell; he said it was not good oil, and I think he told me it must be made out of dipped oil; it did not smell nice and that they could not afford to sell crude oil at the same price they did dipped oil; that was the reason they were selling their oils so low, they were selling dipped oil, crude oil cost more; that was the way I understood it; that was in '82; it might not have been just those words, but that is my recollection now; I think he told me to tell the customers that they had suits commenced against the Buffalo people for infringing on their patent rights, or something of that sort; I was to do all I could to get the trade; to use most any argument that came along to get the trade, that is, in the natural course of business; he did not tell me to lie about it; not that way, don't do that in business generally; he told me if there was any loss on oil to let the Buffalo Company get it; there was no other competitor in the market in Boston than the Buffalo Company; not anybody that was cutting prices, that I knew of; I was getting from one road 20 cents a gallon for lubricating oil; we got the price down to 15 cents, and got down then, I believe, to 8 cents, so that I have been selling them since then at 8 cents.

I should say Charles Everest was in Boston five or six times while I was in the employ of the Vacuum Company, perhaps not but four or five times; I have never been at the Rochester works; I sold oil, I supposed it was manufactured at Rochester, all that I sold; I don't know of any way of knowing, only I know that it was delivered from the Boston office; C. M. Everest never told me to tell the trade that the purchasers would be liable for damages if they handled the Buffalo oil, or anything of that sort.

Cross-examined: These statements which I was instructed to make to my customers about the oils of the Buffalo Company were true.

FRANK R. BEARDSLEY, a witness for the prosecution, testified as follows:—

I have lived in Buffalo since April, 1881; I was here while the Buffalo Company's works were building; I was employed there by Mr. Matthews, by the company; I know Albert A. Miller and the two Everests; I was in the employ of the Rochester Company from about May, 1879, until April, 1881; I am a brother-in-law of Charles B. Matthews; I came to Buffalo, to this company, and subscribed for some of its stock; before I came here I saw C. M. Everest several times at their office at the works, while I was working there; he first spoke to me about my coming here; he said he supposed I knew about the new company, or these gentlemen going to Buffalo—Mr. Matthews, Mr. Miller, and Mr. Wilson; I told him I just heard of it; he said, "I suppose you will go with them;" I said, "I have no arrangement, I do not expect to now;" "Well," he said, "I suppose you will probably go with them," and talked about it a few moments there in the office at the works; and before he went, he said, "I have nothing against you, Frank, but if you go to Buffalo I shall try and fix it so that they won't be able to pay you much salary."

I had some talk with him on the telephone, perhaps a week after that, just before I came away, in reference to when I should leave, and he told me that I could go, I think, the following night, which, I think, was Saturday night; I was shipping clerk for the Vacuum Company; when I came to Buffalo I assisted Miller; he had charge of the construction; we had no one else that could construct the works or make oil; there was one still connected so as to run; about the middle of June the first run was made; Miller had been away, off and on, considerable of the time; I saw this first run of oil; the still was charged with oil and fired up early in the morning before I went out, and about the middle of the forenoon the safety-valve blew off; the safety-valve is located on the condenser [referring to the map].

was connected right here over the condenser on the end of one of those pipes where the pipe turns to go down there into the water.

When the safety-valve blew up, the vapor floated back over the stills towards the Atlas works; the vapor was light-colored, and resembled steam; there was quite a large volume started up first, and then the wind blew it off over the still; it is inflammable, so that if it came in contact with any fire, it would have taken fire immediately.

Q. The works would have taken fire?—A. Yes, sir; I do not know where Miller was when the safety-valve blew off; we looked around the works pretty thoroughly and then my brother sent a man over to the Atlas works; I do not know as any one came clear over from the Atlas works when this vapor was passing out; Miller was found and came back in a little while.

Q. What had been done, if you know, to the safety-valve prior to the first run?—A. It had been packed with plaster of Paris and weights hung on the lever.

Q. At whose directions?—A. I do not know which men did the packing of the plaster Paris or the hanging of the weights.

(The defendants' counsel thereupon moved to strike out the witness's statement as to what had been done to the safety-valve, as he did not remember at whose direction it was done. The court denied the motion, and the defendants excepted.)

Q. Were you around there continuously while the works were being built?—A. I was there the larger part of the time.

Q. Who directed the work to be done and the manner of its doing?—A. Mr. Miller, exclusively; he had charge of it; I saw the weights upon the safety-valve, but I did not see the men hang them there; I saw the packing of the safety-valve with the plaster Paris, but I did not see it done. This same safety-valve blew off again in the afternoon of the same day.

Q. What blew off again?—A. The same safety-valve.

Q. Did you see who put it back?—A. It adjusted itself after the blowing off.

Q. Then it blew off again in the afternoon?—A. Yes, sir; I was there; we tried to find Miller again; I went over to the Atlas works after looking around our own works, and found him there at their derrick, watching the drilling of a well.

I saw the character of the fire under the boilers; it was a very hot fire; I noticed the condition of the front portion of the still; it is of iron, about 10 feet in diameter and 15 in length, something in the shape of an ordinary boiler such as we see on an engine; the fire is applied beneath; it was an extremely hot fire; the front showed a very hot fire; it was red in some places; I have never seen a fire under a still as hot as that since; the fireman was Louis Lapress.

I found Miller the second time; he came back to the works with me and directed to have the doors of the still opened to cool the fires; after this was done the safety-valve gradually stopped blowing off; I should say this was 3 or 4 o'clock in the afternoon; I saw the residuum that was left in the still; the kerosene went over; what did not escape through the safety-valve was condensed and run into the ground tanks.

Q. What was the residuum in the still from which you make these lubricating oils? What condition was that in?

(The defendants objected to this question as incompetent and immaterial. The objection was overruled, and the defendants excepted.)

A. The residuum left in the still was black—charred, had coke with it; I have seen these stills run since that time; I have been there at the works continuously since; I know what residuum is left, what it is.

Q. State what it should have been, if run properly.

(The defendants' counsel objected to the question as incompetent and immaterial, and that expert skill acquired since that time does not authorize him to speak.)

(To the court:) I have been engaged in the manufacture of oils since that time, and now am familiar with the process, and with the products as obtained.

(The objection was then overruled, and the defendants excepted.)

A. It should have been a green cylinder stock; the oil was spoiled, the residuum, it was only fit for fuel; I do not recall how many barrels in the still; the brick-work around this still was cracked in several places on the side; this first run was the 15th of June; I have become familiar with the manufacture of this oil since that time, and know the quantity of heat that is safe to use, and what is not safe; it usually requires about twelve hours of fire under the still to run a batch in the still, and further time for steam.

Q. You may state whether or not the fire that you saw, upon the running of this first batch of oil, was more intense than should have been applied in the usual course of the manufacture of oil.

(The defendants objected to this question as incompetent and not a matter in relation to which the opinion of the witness can be received. The objection was overruled, and the defendants excepted.)

A. It was. I have learned from my experience what would be a dangerous fire.

Q. You may state whether or not the fire applied, the intensity of the fire or heat applied, on this occasion, was dangerous to the safety of the works or otherwise.

(The defendants objected to the question for the same reason stated for the last preceding objection. The objection was overruled, and the defendants excepted.)

A. It was. It was within two weeks after the running of the first batch that Miller went away for good, and was not seen at the works any more; there was no experienced man there to take his place when he went away; Mr. Matthews was not at the works much of the time; I didn't know where Miller had gone these times he was absent; Mr. Matthews and I went down to the depots several times at night to search for Miller, sometimes at midnight or later, watch the train; I have been to the Central depot, and I have been to East Buffalo, and down to the Louisiana street crossing, where the trains stop; I never succeeded in finding him; I was at this time one of the stockholders of the Buffalo Company and one of the directors; I did not know Miller's whereabouts for a long time after the 1st of July. I am now manager of the works.

Q. State what was done in trying to manage the works without Miller, or in getting somebody to take his place, or, in fact, growing out of the departure of Mr. Miller, within your knowledge.

(To this the defendants objected as immaterial. The objection was overruled, and the defendants excepted.)

A. We tried to find a man to take his place, but we were unable to do so, made inquiries and could not find any one that was experienced; I tried to experiment and do the best I could; we went to work and made experiments, and tried to put the pipes together and fittings, and made a great many mistakes, because we did not know how they should go; when we put them together and tried them one way, and then have a man take them down and try it again; we were experimenting in that way for as much as a year before we had things so that they ran successful; we made inquiries, and tried to find some one that we thought would be reliable, but were unable to do so; we did not dare to advertise for a man; I did not make inquiries anywhere outside of Buffalo, but I knew of no one in the city that we dared to speak to on the subject; at the time Miller left the Buffalo Company had contracts made for the delivery of oil to be manufactured here; it was not possible to fill any of those contracts; we experimented somewhat beyond a year; we learned the business ourselves by experimenting and picking it up as fast as we could.

Q. Do you know of your knowledge, at the time of the starting of the Buffalo works, what the profit was or could be realized per barrel at that time upon the manufacture of lubricating oil from petroleum?

(The defendants objected to this as immaterial.

The district attorney stated that the evidence was offered upon the question of motive.

The objection was overruled and the defendants excepted.)

A. It was \$5 or \$6 per barrel on the residuum; the profit at that time on the kerosene illuminating oil, I think, was three or four dollars a barrel, perhaps five.

Q. Do you know how much the capacity of these works was if operated to the best advantage on the 1st of July 1881?

(To this the same objection, ruling, and exception were had.)

A. The capacity of these two stills was 400 barrels of crude a day; there was only one ready to operate when Miller left; the two others were partially completed; they were on the ground; the capacity of the number three still was about 50 barrels of crude per day; numbers one and two were the same size; the capacity of the two 400 barrels of crude a day.

Q. How many barrels, if you know, of lubricating oils could 400 barrels make in the usual course of your business?

(The same objection, ruling, and exception were had as last above.)

A. About 80 barrels of cylinder stock; the balance of the amount would be kerosene, naphtha, gasoline, and paraffine, with the exception of a small loss in distillation; the percentage of loss is from 4 to 7 per cent.

On cross-examination the witness said: I have now become familiar with the process of distillation of oil, and the machinery by which it is done; I consider myself intelligent enough to speak upon these questions which have been addressed to me by the district attorney; I know about the construction of a still, with its pipes and attachments, and the fire that should be applied to it, and all that; a safety-valve is to relieve the pressure from a still or boiler when the pressure becomes too great for safety.

Q. What is the object or purpose of packing any safety or any other valve in machinery?—A. It is usually done to keep it from leaking. There are different kinds of valves and of course different uses.

Q. Whenever a valve is imperfect, in order to secure its perfect working you pack it, do you not?—A. Well, we pack the joints to prevent leaking, with different substances.

Q. But if one of these joints is a joint with a valve you pack it, do you not?—A. Yes, sir; usually.

Q. You do if you want to get a good result?—A. It depends upon the kinds of valve you are speaking of.

Q. I am speaking of a valve that requires packing.—A. A safety-valve?

Q. I do not care whether it is a safety-valve or any other valve; if it leaks you pack it, do you not?—A. Well, safety-valves are not usually packed.

Q. Why?—A. They usually work with springs or weights, without packing.

Q. But suppose the seat into which the valve shuts is not tight, then what would you do?—A. They are usually ground; the metal surfaces are ground to make them fit together tight.

Q. Suppose they did not?—A. They are ground again until they are made tight so that they fit.

Q. Suppose where it was attached to the boiler that there was an imperfection—it not being tight—then how do you secure it?—A. That is the only way I know that safety-valves are made tight, by grinding and putting in new metal seat. These safety valves that were on this still were of a different kind; they were packed at this time in plaster of Paris.

Q. What were they packed for?—A. Well, they were packed to keep them from leaking and flying off.

Q. But if they had leaked they would not have answered their purpose, would they, as well as though they were tight?—A. Well, if they had leaked the vapor would have escaped all the time.

Q. And that was a thing to be guarded against, was it not?—A. I do not know why they were packed at that time in plaster of Paris.

Q. I am not talking about that particular time; if a valve leaks it does not answer its purpose?—A. No, sir.

Q. If you have no other way of making it perfect you pack it, do you not?—A. Not a safety-valve, they are ground.

Q. I say if there is no other way to do it, you pack it?—A. I never saw a safety-valve packed in that way except on that occasion, except that valve; they are usually of a different manufacture. I should not pack a safety-valve in that way; I should grind it.

Q. If there is no other way to secure it, to make it tight, then you would pack it, would you not?—A. No, sir; I should not pack a safety-valve.

Q. Will you answer my question?—A. I should not pack a safety-valve with plaster of Paris under any circumstances.

Q. I did not say anything about plaster of Paris yet. Now, if there is no other way of securing a valve to make it tight, then you would pack it, would you not?—A. I should not pack a safety-valve; no, sir.

Q. How is a safety-valve secured to prevent it constantly rising and letting the vapor escape?—A. It either has springs or weights to hold it to its seat—ordinary safety-valves.

Q. Was this an ordinary or an extraordinary safety-valve?—A. Well, it was rather extraordinary; it had a lever upon which weights were placed, but the lever of this one was not graduated. It was just a plain bar of iron.

Q. Then there was nothing by which the valve would operate when the pressure got above a certain point?—A. When the pressure became too great, so that the weights and packing could not stand it, it would fly up.

Q. There was no way in which you could graduate the pressure in the boiler by this valve without any guess-work, was there?—A. By this valve; yes, sir.

Q. And you regarded that as a proper still to commence operations with, did you?—A. I did not have any directing about that valve; that was the kind of valve that was put on there; I know that Miller ordered it made; I don't know as he ordered it made without graduating marks upon it; I think that Mr. Miller sent me to the founder with the order, if I remember right; I don't remember whether he explained it to me; I think he explained it, though, how the lever should be made; the lever resembled an ordinary lever very much; it was a straight bar of iron; I don't consider it a proper lever; I don't know at that time as I knew anything about safety-valves; I presume at that time I knew enough to know that a safety-valve is so arranged that when the pressure in the boiler or still, or any other device upon which it is placed, reaches a certain point it will open of itself. We don't use that valve now; we have the regular safety-valve; that was not a regular one, that was a kind of a home-made concern, made to order; a regular safety-valve has a ground seat, with a lever with a graduating place showing the pressure where you set the weight; I think this valve was made here in Buffalo; I can not tell who made it; I think I took the order to George W. Tift's, but still I wouldn't be positive; we had some grates cast; I don't know as I knew what the device was used for, or that it was to be used as a safety-valve; if I remember right I think Mr. Miller had his pieces made separate and a man put them together at the works, put the lever on and fixed the

arrangement; I ordered the pieces for this valve from Tift's—valve and fittings; it was made with a 4-inch elbow, and some other pieces bolted on to it; I don't know that at Mr. Tift's works they knew what we wanted to use it for; I am not sure whether I knew at the time the pieces were got; I saw it being put on, though, afterwards; I think I have found out since that they used a valve of that kind, that the Vacuum Oil Company in the city of Rochester used a valve of that kind; I think it was like the pattern of the Vacuum Oil Company; I don't think I ever examined any safety-valves at the Vacuum Oil Works, or took particular notice of them. This still, I think, had a gauge-pipe attached to it when this was commenced, that is to show how full the still is; it is by that, and by gauging the tank from which the crude is pumped, that we determine the quantity of oil that is in the still; it is a little more accurate to gauge the tank from which it is pumped, although the gauge-pipe is very near. I do not know the difference in the distillation of oil between fractional distillation and destructive distillation, not by those terms; I am not familiar with those particular terms.

Q. Now, fractional distillation is where the vapors are produced at the lowest possible temperature, and are not overheated or decomposed; destructive distillation is where the heat is much greater, and the component parts of the oil are separated in the distillation; now, which was this?—A. I think this was what you would call destructive distillation; according to those definitions destruction requires a very much higher degree of temperature than fractional distillation. When we started up these works some of the apparatus had been used, was second-hand; we had a pump that was used in the oil regions; that had not very much to do with the distillation of oil. The stills were new, right from the shop; they are set in brick-work which had been recent laid, and the mortar was fresh; the brick-work was not thoroughly dried, any of it; it should not be the case that the brick-work in which the stills are set cracks if it was fired carefully for the first few times until it dried; I don't think the brick-work in the other still was cracked after use; it may be now from long use, but not on the first run, if it was run carefully and heated slowly; the distinction is between the first run and some subsequent run because it was run hotter, of course; if the fires are started carefully when the brick-work is fresh, and heated slowly, they should not crack to any great extent; might be some little crack.

Q. Would you expect to get just as good a result, would you, in starting up works anew, where they have never been tried before, as you would where the works had got into good working order?—A. Well, you might not get the first few runs as accurately to the gravity until you saw how the still would run; I should expect to succeed at first, and make a decent oil, if I understood the business; new works, new machinery, when first put in operation ought to produce as good results as after use for a time if they are run carefully; I think they do run successfully if they are arranged right, perhaps not as accurately to the gravity until a few runs are made and you get used to them.

I left the employ of the Vacuum Oil Company just before April 1, 1881; I was employed there shipping, and knew, of course, the customers to whom the oil was shipped; I think nearly all of them passed through the office there, the orders; perhaps not quite all, but nearly all; I went to the Vacuum Oil Company in May, 1879, and left April 1, 1881; I had a conversation with Miller about my coming to Buffalo, and I think it was the same day that I talked with Mr. Everest; I am not certain whether it was just before or after; I had no conversation with Mr. Matthews about my leaving until after; they told Mr. Everest that day that Mr. Miller and Mr. Matthews went to the office; when they came back I think it was Mr. Miller told me that they had talked with Mr. Everest; before that time I had no idea of leaving.

After Mr. Miller left we were unable to find any one to fill his place; I did not myself inquire of anybody outside of the city of Buffalo; I don't think I inquired of anybody in the city to any extent; I don't now recollect having talked with anybody about it; I don't know as I ever saw Mr. Matthews inquire of anybody; I do not know that he ever inquired of anybody.

I should think the arm of this safety-valve was about 2 feet long, perhaps 2 feet and 3 or 4 inches; from my recollection I should say that the weight of the iron that was on it was 20 to 25 pounds; the size of the opening of the valve was about 3 inches in diameter, or a little over; the amount of pressure that would be safe in the still with that length of arm and that opening, and with a weight of 25 pounds at the end of the lever, would depend upon the amount of pressure that the plaster of Paris cement held beside these weights, not only the weights, but the cement; a regular safety-valve is ground so that it needs no packing, so that nothing escapes until it raises.

Q. We will assume that nothing would escape from the valve until it is lifted—do you know what pressure it would require—that is, what pressure upon the still would be indicated by a proper gauge, before the valve would be raised?—A. As I understand you it was in a cement of plaster of Paris.

do not care whether it was by
as so that nothing escaped—
her before that valve would be
ment, whether it held tight or

pose the valve was absolutely
There would be a great dif-

together your cement will hold
depend very largely on how

he sense that these two parts

protect the joints?—A. It was
together in it as you would co-

is that what you mean?—A.
old cement two plates together.
in there which, as you under-
the purpose of holding the valve
do so; at that time I did not

did but some cement that was
it did not have anything to do
the case.

sir; that still would bear with
try to carry now; this elbow
nt; the inside diameter was 3
um still; it is quite common
ot very common on a still; a
ill only carries 5 or 6 pounds;

occasionally; it has occurred occa-
sionally; they have blown off slightly,
little occasionally, then we slack

when they gets too hot they blow off;
any cause of more than 5 or 6
less off; they are there for safety;

why do not blow off, they cease to be
that they didn't blow off, and

dangerous; if you haven't a safety-
all, if there was sufficient pres-
he still carried; the still might

we consider safe pressure; 5 or
above that; I have no means of
on the safety-valve, as it was

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ple device at that time, that the
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of the forenoon, I can not say
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noon when it blew off again; I

came too much pressure again;
it could not be cemented very
in it and then lapped around. I

distinctly of seeing any one doing
negatively.

man from Rochester we had
t building stills; his name was
here by the name of Kelly; he

July, 1881, to January 1, 1882,
how many men we had out in the
except Mr. Wilson; I understood

any branch offices that I know of;

only this one still ready for oper-
Mr. Miller went away, I don't re-
out the first of August; that was

the manufacture with the first still
was ready we commenced the

manufacture with that; number three still we began to try to run the first of August; these are all the stills we have ever had; we continued the use of those stills right along from that time to this; I don't know how much crude oil we used there in the year 1886; I can not tell without looking it up from the books very closely; I can not give anything near it without looking it up; not within a thousand barrels; I can not give you any idea how much crude oil we used there in any one year since 1881; I can tell the capacity of that run at full blast; we have at times run it at full capacity; I can not give anything like what we have done in any one year; late years we are manufacturing our kerosene in the same stills, and that takes up a great part of the time; I could not tell without looking up the books how much oil we would use in any one year; the capacity, one still would be 200 barrels every twenty-four hours; I do not mean that, in point of fact, they run the still to its full capacity, unless it is for a short time; there would be delays, of course, sometimes; the most of the use of the vacuum still was for mixing engine oils and cylinder oils, and sometimes running Franklin crudes; I think the whole amount of crude for the first year up to January 1, 1882, was between 16,000 and 17,000 barrels; I think I had the most to do about superintending the manufacture; we all did what we could toward it; there was no one there that knew any more about it than I did, I don't think; we found that Griffin did not know but a little about it; he claimed to know; Keily only operated on the vacuum still; he did not understand the business very well; I don't think we ever ran as small a quantity as 16,000 or 18,000 barrels of crude oil in that length of time; I could not state definitely how much we used in any one year, but then I know we were idle some of that time quite a good deal of it; why I think we never used so little as that in any other six months is because we have run more of the time since that at times; I think at times we have run twice or three times as much in a month as we did in any of those months; I think we have books in our concern at the office which will show accurately what we have run.

The safety-valve is a disk or plate which fits down on to the seat; there was a groove cut in the seat, and a projection that fitted down into this groove, so that it was not two level surfaces, but one fitted down into the other; the plaster of Paris was filled into this groove and on to the surface; this tongue on the disk fitted down into the groove; this plaster of Paris was put into that groove and across the surface of the top of the valve; it was not only in the groove, but it was on the top surface of either side.

The profit on the oil in 1881 was \$5 or \$6 per barrel on the lubricating oil, and on the kerosene perhaps \$4 or \$5, might have been more, possibly less; I would not want to state that of my own knowledge positively, but that is my impression, I have nothing to do with the selling; I have to do with the manufacture; I stated in answer to the district attorney that those were the profits.

Q. Don't you know that at that very time the price of illuminating oils, delivered to the grocers in the city of Buffalo, was less than \$2.50 per barrel?—A. That would depend on the grade of the oil; any grade of illuminating oil that was manufactured by this company; no, sir; I don't know any thing of the kind; I think kerosene at 20 cents a gallon would figure more than that, or 18 cents; I think kerosene is retailing in Buffalo, by the store-keepers, at 18 or 20 cents a gallon; we were not selling illuminating oil then at all, not manufacturing it; we were not manufacturing the lighter parts; we sold that in bulk, the light ends that came off from the oils; I think the refined oil was retailing at 18 or 20 cents a gallon in barrel lots; all I know about the price of lubricating oil was that we got 35 cents a gallon for this residuum along in that fall; I could not say how low our agents sold that oil delivered to our customers; I do not think this cylinder stock was sold at a great deal less than \$5 a barrel, it might have been, but I do not think so.

Being again examined by the district attorney, the witness said: The way the safety-valve blew off upon this occasion was, this cover rose up until the opening was nearly wide open, I should think, and the vapor came out in quite a large volume from that; as soon as it left the pipe, it spread out and occupied a large space.

LOUIS LAPRESS, being examined as a witness for the prosecution, testified:

I live in Buffalo, and am working for the Buffalo Lubricating Oil Company as a cooper; I was here at the time these works were building, and was engaged upon that from the beginning; I knew Albert A. Miller at that time, slightly; he was conducting the erection of the works; no one besides him, that I am aware of; I did not see the putting together of this safety valve, or know who did it; it was sealed down with plaster of Paris and loaded with weights at the end of the safety valve rod; I can not tell you the number of weights just at the present time; I don't know as I ever knew; there were several weights on the end of the rod or the lever; my business at that time was I generally followed engineering and firing; I was driving the delivery wagon at the time; I was there when this first batch was run; I was put on the boilers that day, and also instructed to fire the still; I don't know as I started it, but I run it after it was started; Albert Miller directed it; he directed me as to the build-

ing of the fires; as near as I can recollect he told me to fire this still, to fire it as heavily as I possibly could, and I did so along up until some time during the forenoon; he came to me and made it to me in this way: He says, "Damn it," he said, "You ain't firing this still half;" he said, "Fire this still;" he says, "I want you to fire this still; you ain't got no fire under it;" I think, if I recollect right at the present time, he took the shovel from my hands and threw in some coal himself; at that time I had an ordinary fire, and he threw in some coal. We have not, to my knowledge, had fires under this still as hot as that since I have been there; the result was that our safety-valve blew off; I saw the benzine or light oils come out; I can't tell how high the gases came; I know it went above our still, fast above our still into the Atlas; I don't know where Miller was during when he said to fire up and then came back and threw on the coal; he was not around there to my knowledge; I did not see him there after that; I noticed the fire-box in front of the still; it showed the indications of a very heavy fire under the still; the indications was cherry-red furnace front; the front of the fire-box was red; it looked to me as though it was naturally red. After the safety-valve blew off, I believe the fire was checked down until she cooled off so that the safety-valve got up to her place again; I don't recollect who arranged the safety-valve; Miller told me to go and fire the still again; no further directions that I know of at that time; he told me to shovel the coal into it, fire her up, and I had not been firing her properly; then I built all the fire I could possibly put in her; I did not see him any more, as I recollect, until the safety-valve blew off in the afternoon sometime; I don't know where Miller was at the time; I did not see him there at the still; I saw the residuum that was left in the still; it was coke and burnt oil; I think the brick-work around the still was cracked in a few places from that firing that day.

Upon cross-examination, the witness said: I have lived in Buffalo since along in April, 1881; I came at the beginning of the construction of these works from Wyoming village; I had been acquainted with Mr. Matthews before then; I think I have known him somewhere in the neighborhood of eight years; I had been employed by him before in running a salt well at Wyoming; my duties were pumping the brine and firing the boiler, that was all. I can't tell you just at the present time how long I was there; I had sole charge of the boiler; that was for pumping brine; there was no evaporation that I know of; I pumped it on the ground or in the tank and it ran on the ground; I was engaged in that part of two summers, I think of 1879 and 1880; during the other times in that period, when I was not so engaged, I was working on the farm, part of the time in Mr. Matthews' employ; I can't tell how much; before that time I was living in Canada; came from there somewhere in 1879; it was upon request of Mr. Matthews that I came to Buffalo to go to work about the oil works; it was through word I got through Mr. Beardale; I had known him at Wyoming about the same length of time; it was Mr. Everest, as I understood, that was interested in the salt well; I did not know the Everests. When I came here in April, 1881, I went to work at once about the oil works, jobbing around the yard, nothing else to my knowledge; in Canada I was firing and running an engine at a saw-mill, I think for some six or seven years; I had had something to do with engines and boilers before that, a year or two or three before that. I was working in a saw-mill with my father and running the engine and boiler; before that I had nothing to do with engines or boilers that I am aware of. I think I was jobbing around the yard about two or three weeks, then I went to driving their delivery wagon; I can not tell about how long I was engaged in that; it was not two years, it was more than a week; I do not know whether it was six months, nor whether it was a year; I do not know as I can recollect whether it was a year and a half; I do not know as it was two years; there is nothing that I can tell about the length of time that I drove that delivery wagon except that it was more than a week; there is nothing at all; I do not know if it was ten years; I can not tell when I began firing under that boiler; I do not know as I can tell within a year, and tell the truth about the matter; I fired that boiler several days before I took it to fire entirely; I can not tell you when I began firing under that boiler; I have forgotten the date, and the day, and the time; I can say that I did not drive that wagon for ten years after April, 1881; I can say that I drove it for six months from that time; I can say that I did not drive it for three years from that time; I do not know that I drove it for one year; I should hardly think I did; I can not say positively whether I did or did not; I do not think I did for two years; no, I did not; I can not say positively whether I did or did not drive it one year. During my employment at these works my business never has been both to fire under the boiler and to drive the delivery wagon at the same time; I am employed by them now, and have been ever since April, 1881; I can not tell when I began to be employed as fireman; I can not tell about when I began; I am not positive if it was six months after I went there; I would not want to be positive whether it was as long as a year after I went there when I began firing; I do not know whether it was as long as two years after I went there when I began firing under that boiler; I do not believe it was; I can not say whether it was or was not as long as two years.

Q. Can you explain why it is that you are able to remember with so much more

distinctness when you were under direct examination than you can now?—A. No, sir; that I do not. I continued firing the boiler up till last fall some time; from last fall on I have been coopering, fixing and repairing barrels for the company; Mr. Boyle is employed in my place as fireman now.

I never knew Albert Miller at all until I came to the works; if I recollect right I first saw him, I think it was, opposite the pump-house, standing there looking at some pumps; I believe he was charged with the whole business of superintending the construction, as near as I can understand. I was never in the world at the Vacuum Company's works in Rochester. I did the first firing that was done under the first still; I can not say whether I prepared the fire; I don't know as I did; I don't know but what I did; I can't tell whether I did or not; I can not tell whether I lit the fire or not; I can not tell whether the fire was burning when I came there to tend it, or not; the fire was not so hot when I first came there as it was afterwards; I can not tell exactly whether the fire was burning or not when I came there; I can not tell whether I saw anybody else light the fire, nor at what hour in that day I came to tend to the fire; I think it was about 8 o'clock somewhere, as near as I can judge; I don't remember whether or not there was fire going at 8 o'clock in the morning; I think it was going, if I am not mistaken; I was driving the company's delivery wagon the day before; I didn't do any of that on the day the fire was started; I came to the works that day at 7 o'clock in the morning; before I went to the fire to tend it, I fired the boiler; there was a fire for the boiler and a fire for the still; I was charged with the duty that day of tending to both of them; I never was afterwards; I only continued to do it that day; after that my duty was driving the delivery wagon; it was only that one day that I fired the boiler and still before I was taken off and put upon other work; I can not tell exactly how long it was after that before I came back to duty as a fireman; I can not tell any thing about how long it was; I don't recollect; I don't think it was a year; I can not recollect exactly the time; I presume I could tell within three years, but could not tell just exactly the time; I when I began firing; I do not know whether it was as long as two years after I went should judge six or seven months, somewhere in that neighborhood of this six or seven months after that first day; I may have fired the boiler on and off, I would not be positive as to that; it was only on and off for a few hours at a time, that is all; my almost exclusive duty during those six or seven months was driving a wagon.

I didn't converse with Miller at all about my duty as fireman before 8 o'clock on that day, as I am aware of; he came into the fire-hole and told me that I was to fire the still along with the boiler; that was the only conversation that I had with him; I was already at work firing the boiler; went on it in the morning; he told me the night before that I was to go on the boiler, I believe; in the morning he came, somewhere about 8 o'clock, or as near it as I can judge, and told me I was to fire this still with the boiler; I had no more conversation with him the night before than I have now given, not any more that I recollect of particularly, at all; he gave me then no particular instruction; on the morning of this day I didn't talk with him any more than that, I think; I think he came in and told me to do this work and went right off, and then I went to work firing the still as well as the boiler; I can not tell whether the fire was already begun under both; I can tell under the boiler—the fire had been under all night, but I can not tell under the still, whether it was going or whether it was not going; I don't recollect how long it was before I saw Miller again; I think not until along in the forenoon some time, or the afternoon, I don't recollect which; the forenoon, I think it was; I believe I have given all the conversation that passed between him and me that I have spoken of when he told me to go and fire the still; I have given it in answer to these questions that you have been asking me now; I believe the words he used when he came in and found me firing the boiler, that I was to fire the still as well as the boiler.

Q. Then he turned around and went away, and then you went to firing the still?—A. I believe, sir, that is the words he used, as near as I can recollect them; I saw him again somewhere along about noon or afternoon, I can't tell just exactly when.

Q. The time that you next saw him again after you went to firing the still was when he came back after the safety-valve blew open?—A. I don't remember exactly whether it was before or afterwards; I remember his coming to me at some time during the day and telling me that I was not firing the still hard enough, to fire up; whether it was before this or after this I am not positive to swear; I can not tell whether it was before or after the safety-valve blew open that he came and made those remarks to me. After this day's firing it was six or seven months, or somewhere along there—some time, I don't know exactly the day or time, before I was put permanently at work firing again.

Q. Well, from that time you continued right on until last fall firing still and boiler?—A. Yes, sir; not still; no, sir; I had had nothing to do with the still; I never did fire the still before or afterwards, except that one morning; never seen one before.

Q. So you have never had occasion, except that one morning, to examine the fire-box for indications of a heavy fire there?—A. Yes, sir; I have passed back and forth

business ; I have never since that time, to my recollection, seen the fire-box look red ; I have not been making a habit of inspecting the fire-box as I went by ; I have often looked at them as I passed by them ; looked in their fire-holes and opened their doors ; I don't remember since that time of having seen any red on the fire-box.

Q. Did you make any examination before you began to fire the boiler, or the still, or those appendages, of any kind ?—A. I looked at my boiler to see how it was, but for the still part I knew nothing about it ; never had seen one before ; I didn't know whether it was right or wrong ; I didn't trouble myself about the safety-valve, anything more than I noticed how it was fixed ; it was right over me, and there was a hole, so that I couldn't help but see it if I stepped out doors ; I did look at it ; I had been nearly all my life accustomed to safety-valves ; I had never fired a boiler that hadn't a safety-valve ; I had been in the habit of seeing them weighted down ; I had never in my life seen a safety-valve that was not weighted down. When the fire was moderated I opened the doors to moderate it ; then the safety-valve settled down to its place again, after a time, until the fire was made too hot again ; when it settled back, I think, it didn't leak gas, until it blew off again ; as near as I can recollect, it settled down to a tight, close joint.

Q. The safety-valve, after it blew off, tried to operate exactly as a safety-valve should, didn't it ?—A. No, sir ; I don't think it did ; I think it didn't settle right back to its place till it was placed there by somebody.

Q. Then why did you say that it did ?—A. I merely say it did ; I say I think it went back to its place by somebody putting it there, I think ; I didn't notice anybody put it there, for I wasn't there ; I went away from the place.

Q. Then why are you telling us that somebody put it back ?—A. I say I don't think it went back of its own accord.

Stenographer reads from the witness's direct examination as follows :

"Q. After the safety-valve blew off, what was done ?—A. I believe the fires were checked down until she cooled off, so that the safety-valve got set up to her place again."

"Q. Do you want to modify that now ?—A. Yes, sir."

Being further examined by the district attorney, the witness says :

As near as I can recollect, the boiler that I fired was about 20 feet from the still, I should imagine ; while I was firing the boiler there that day I frequently saw the fire in the still ; I was back and forth from the boiler to the fire.

Being further cross-examined, the witness says : The brick-work, after the fire, was cracked in two or three places ; I don't recollect just how many ; I don't remember how long it was before anything was done to repair those cracks ; I don't know as there was ever anything done ; I wasn't there.

JEREMIAH THOMAS, a witness for the prosecution, testified as follows :

My business is firing stationary boilers ; I am now in the employ of the Buffalo Lubricating Oil Company, and have been close on to six years ; I wasn't there at the beginning ; they had commenced some work before I made an engagement with the company ; they hadn't run any oil ; I hired to do the boiler work or corking, and on the tank they were building, an iron tank, number 1 tank ; I know Albert A. Miller ; he had charge of the works when I came there ; of the still and everything connected with it, as far as I know ; during the construction Miller was absent at times ; I don't know where he was, or what he was doing ; I am not certain whether I was there the day this first batch was run ; but I was there and worked every day when the weather would permit, while I had out-doors work ; I might have been there on the occasion when the safety-valve blew off, but I don't remember anything about it more than hearsay ; quite likely if I was working that day, I was on the ground, but I wasn't near the safety-valve ; I don't remember seeing the vapor blow off ; when they were getting ready to run oil, perhaps at that time I might have been assisting to connect some of the other stills, or I might have been still working at some of this iron-work around the yard ; those yards are quite extensive ; I might be working in one part of the yard and not be in a position to observe the still or safety-valve ; I heard about this first run being talked of afterwards around the yards there ; I think it was the following day that I looked at the residuum left in the still after this first run, when they got it out of the still ; I didn't help take it out ; there were two men taking it out ; I think they were from Rochester, and one man's name was Raynard, and the other man's name—his first name was Richard ; I have forgotten his family name ; it looked pretty black.

Shortly after that Miller went away for good ; I know nothing about how they endeavored to get in a man to run these works, more than when I saw a man come after some time ; I know of experimenting, changing pipes ; I can not say how many times they changed them ; I know the work that I was engaged on myself ; I assisted in

changing them; I could not say how many times I changed them, or any of them; several times in one day; I couldn't make them fit right in the first place.

One time some person in Rochester gave me some bottles; it was Truman Miller; I understood at the time he was night foreman at the Vacuum Oil Works; I brought the bottles to Buffalo. I never owned any stock in the Buffalo Company.

Upon cross-examination, the witness said: I was employed by Albert A. Miller about the middle of May, 1881; I didn't do the boiler-making work. It might have been six weeks or more after Miller left, or it might have been a little less, before we got the vacuum stills in a condition to run; at the time Miller left, the vacuum still was on the ground; it was set, but the connections were not all made; as soon as the man who took charge of it claimed it was ready they started it; that was Mr. Kely; he run it from that time for eight or nine months, as I recollect; I had never had any experience in oil distilling before this; the residuum that came out of the still might look black and still look blacker; there are degrees; the color of the residuum is pretty dark, some of it; different shades I have seen; in mixtures, that may depend upon the quality of the crude oil that is put in; perhaps that affects it, at any rate.

We had to change the pipes more or less; I couldn't say that I got them right myself at all; they had to be changed until they were right and considered safe; a competent hand would, no doubt, have got them right at the start; this is the only new works that I was ever engaged in; I haven't any very large experience after all; any gas-fitter could, I suppose, have fitted those pipes most likely, with one-third the trouble it took me; I wasn't much acquainted with Buffalo, and have been here but a short time.

CHARLES BEARDSLEY, a witness for the prosecution, testified:

I have resided in Buffalo, I think, since about the 1st of June, 1881; I have been since with the Buffalo Lubricating Oil Company; prior to that my business was fireman in Wyoming; I was brought up on a farm, and came here and went in the employ of the Oil Company; I was at the works several times, before I came to stay permanently, for a day at a time; I came here to be an assistant under Mr. Miller; he was superintending the construction of the works; I was helping around the works what I could in one capacity and another under Mr. Miller; when I got here and was working out there, Miller was absent at times from the works in the month of June; he might have been away a third of the time, perhaps, of the working hours; I couldn't say exactly how much he was away; I can't say of my own knowledge where he was; when he was away we were going on with the works the best we could under what instructions we had; I had no knowledge of the construction of an oil refinery of this nature; I knew of no person around there who did, except Miller; I think I know now how to run a works of that kind; I have learned that by experience at the works. When Miller was gone I think we made endeavors to find him; made inquiries if anyone had seen him; I think some of the time we went to the depots to see if we could see him there; I don't know that we ever succeeded in finding him; I don't recall any times that we did.

I was there upon the occasion of the first run; Miller was there that day some portion of the time; Lapress did the firing for the still; I saw the fires under the still that day; the fire surface was very large under the still, and there was a very heavy fire; I have seen the fires since that were used in the distillation of oil; I have never seen a still fired as hard as that one was; the fire-box was quite red; I think I heard Miller instruct the fireman to put more fire under the still once; I think there was a very strong fire at that time, if I remember; after the still had been running part of the forenoon the safety-valve blew off very heavily; it emitted what we call vapor; I saw it rise in the air; it went towards the Atlas, went to the southeast there; Miller was away from the yard at the time that the safety-valve blew off; the first thing I done was to try to find Mr. Miller; I went towards the Atlas yard, I think, the first place I went; I see him in the yard; I went as far as the Atlas line, I think, over in that direction, I couldn't tell exactly, and I met Mr. Smith at that point, the superintendent of the Atlas, and inquired if he had seen Miller; after a little while we succeeded in finding Miller; I came back to the works and sent a man out in one or two directions to see if they could find him; he came back in a little while, I could not tell how long it was; it might have been twenty minutes, perhaps half an hour; I think the fires were slackened, and some went to work to try and fix the safety-valve back; I think it was still leaking, but not like the first excess; I couldn't tell who tried to fix it back; I don't remember; I couldn't tell whether it was Miller or some one else; I remember of their going up to fix it, that is all; I was there all the time, till they had fixed it; I think Miller was there a little while and the still was started again; after that I saw the fires under the still again; I think it was fired quite heavily again right on; Miller was there once in a while, and once in a while he was away; he was not continuously there; there was another escape of vapor from the safety-valve some time during the afternoon; I think the fire was finally drawn or cooled off towards night, in the evening; I can not tell whether

they were drawn or went out; might have done either way; I had never seen stills run before; was green at the business; I didn't know the danger of this vapor of firing until I was warned by Mr. Smith.

Q. Do you know whether these gases are explosive or not?—A. Yes, sir; I suppose they are.

Q. Do you know whether the gases that were thrown off on that occasion were explosive or not?—A. I suppose they were.

(The defendants moved to have the answer stricken out as incompetent and immaterial. The motion was denied, and the defendants excepted.)

It might have been three or four weeks after this before the vacuum still was in running order; I couldn't state exactly; a man by the name of Keiley was running it first; I think he was running it first; I think he was there eight or nine months, something like that; it may have been something like a year before we could make each kind of oil that we were trying to make, and during that year we were experimenting. I couldn't tell how many men we had in our employ when Miller went away; it might have been fifteen or twenty, somewhere; I couldn't tell exactly the number; I don't remember that Miller ever returned to the works after he left for good that time; he never took charge of them again.

Upon cross-examination the witness said: I am forty-two years old, and have resided here continuously since some time near the middle of June, 1881. I had never lived here before; Frank Beardsley, who has already testified, is a brother of mine; I came here direct from Wyoming; Charles B. Matthews married my sister; I have known him as long as I can remember; I don't know that I was ever connected with him in business before; my brother has not, that I know of; I came here to go into this business; I don't know whether it was exactly by his invitation, or what it was about that; I suppose that it was on his invitation, I don't remember about that; all the knowledge that I have on the subject of the chemistry of distillation comes from my experience here in the last six years; I have never made chemistry a study at all, except as I have made it a practical study, so far as it was necessary to perform my duties about the works; I don't know that I ever made any particular study of chemistry.

Q. Now, the vapor that you say passed off at the safety-valve, did you ever see it pass off on any other occasion than this?—A. Once in a great while there is a slight raise of the safety-valves, but the stills are not supposed to be run hard enough for that.

Q. I don't ask you about what is supposed. Are you able to tell in any language, either ordinary or scientific, what the vapor is that passes off from the safety-valve when it is raised?—A. Do you mean what it is composed of?

Q. What it is; for example, is it carbolic acid gas?—A. I couldn't tell you as to that; in testing oils, I have seen it take fire.

Q. The vapor that passes off at the safety-valve?—A. No, sir; not the safety-valve.

Q. That is the vapor that I am asking you about; I am not asking you whether you can get vapor out of oil that will take fire. I am asking you about this particular vapor.—A. It would get afire if it came in contact with the fire.

Q. I simply asked you if you ever saw that vapor take fire?—A. I don't know that I ever have; I don't know as I ever saw it take fire from the explosion of a still; I can't say that I ever seen any vapor take fire of that kind; I never saw it come in contact with fire as I know of; I have seen it when we have been testing oil and heating it up, that that vapor will take fire; when oil is heated up it throws off a vapor; it would be the same vapor.

Q. I beg pardon; I must recall your attention to the question, and ask you to give me an answer to that or nothing. In what way are you able to determine that the vapor found in testing oil is the same chemical substance that passes through the safety-valve when it escapes?

The COURT. Answer the question.

A. I don't see how I can make any answer to that any plainer; when the safety-valve opened I was in the yard; I think somewhere near the still; as I remember it I was 50 or 60 feet away; I couldn't tell exactly; I don't remember just what I was doing there; I couldn't say that there was any one with me at the moment, or wasn't; I then went over to the still, and asked the fireman where Mr. Miller was; I think that was the first thing I done; I can't tell whether my back or my face was towards the still and the safety-valve at the time; I know I heard a little noise and looked that way; I heard a little noise, and then I turned; I don't know from that whether my back was probably to it; I can't tell whether I was looking out or not.

Q. Then what did you see?—A. There was a column of vapor rising, or a column of something; I don't know what it was, whether it was steam, or vapor, or what it was; vapor is light-colored that rises from the safety-valve.

Q. Does it differ particularly from the vapor of escaping steam in appearance?—A. I think it appears like it; don't look like steam; it isn't exactly the shape of it.

Q. Lighter colored than steam, do you think?—A. Yes, sir; it isn't—

Q. Or lighter in gravity than the vapor of steam?—A. I don't know as to that, whether that would be lighter gravity or not; it was rising up and spreading out; it went over towards the Atlas yard; went right that way away from the fires, and continued to rise; as it went off towards the Atlas, it did not continue to rise; it settles down more; I don't think it rose much, and was dissipated as the wind carried it, spreading out. I watched it while it was going off so hard and stood there around it, one place and another; it might have risen 30 feet above the still; perhaps more, I can't tell exactly; it wouldn't go a hundred I don't think; there was no building between that and the Atlas Works; I think it was all vacant there; the still is near the south end of the property; may be 29 feet from the Buffalo Creek Railroad, I can't tell; the Atlas Works were off to that side; what was known as the Solar Works were next to these, and the next on the east of the Solar were the Atlas; this went right over that way towards the Atlas and Solar; we always speak of it as the Atlas, most always, although the Solar was the nearest; I think that the tanks of the Solar came first next to our works; it didn't reach any buildings there; go right over the tanks there, 10 or 12 feet high.

As the still was relieved of the pressure, of course the volume stopped; the cloud that was floating over east of it, I don't know how long I followed that with my eye; it went off over the Solar towards the Atlas, and I can't tell how far it would reach; I didn't see it settle anywhere; it would not reach to the Atlas, I should not say to their line; it goes out like steam; it faded out in the distance.

Q. Will you be good enough to tell me and the jury how you know this is an inflammable gas?—A. I know it in one way by reading—by information; I can't say just where I have read it, and by talking with—one way I should be quite sure of it is what Mr. Smith told me, the superintendent of the Atlas Works.

Q. Then your whole knowledge on the subject is from what a man by the name of Smith told you, is it?—A. No, sir, it isn't; it is the general understanding of still men and oil men; it is my understanding that it is an inflammable gas; I don't know that I have ever fired any of it myself to see; I expect that my knowledge of it comes from information that I have received in one way or another; I couldn't tell you just how.

Q. All that you know as to whether this is or is not an inflammable gas come simply from what some one has told you?—A. If the question means by practical experience in firing the vapor myself, I never have; I have from general information and reading, and experimenting is the only way I know anything about it.

Q. Experimenting; what experiments have you made that have taught you that that is an inflammable gas?—A. In handling oil, we are always very careful in vapors not to come in contact with fire; that is all I know about it, except what somebody has told me, and experience in handling oil is all I know about it; I suppose the vapor taken from oil is alike, if it is produced by heat.

Q. All vapor that is taken off from oil is alike; let that stand?—A. Not all the same—

I am a stockholder and one of the directors of the Buffalo Lubricating Oil Company; I am at the office now, acting in the capacity of a cashier; I think I came to the works for the first time, to remain permanently, the day the still was first fired, and when I saw the gas escaping from the safety-valve; I had been there more or less a good many times; from that time on, I had been at the works with my brother managing the works. I think I came to the office as cashier in 1883; I would not be certain; I have continued to be cashier from that time on; before that I was at the works with my brother in the management of the works; I think I was giving directions to the men; I began giving directions to the men, I think it was immediately after Miller went away; my brother and I took charge of the manufacture of oil; began immediately, and he has continued since, and I came to the office in 1883.

This vapor which passes off at the safety-valve would be different in density somewhat, whether the still had been running a long time or not; that is, it floats in the air even from the tail pipes; it doesn't turn to fluid when the still first starts.

There was a steam connection to the still at this time; I do not think the steam had been admitted to the still at this time; I do not think so, because that is never put in until the distillate has reached a lower gravity; it is not put in at the beginning of the run; this was not exactly at the beginning; the fire had been under, of course, some time; I could not swear to the exact time at the time the safety-valve blew off; the petroleum was in before the fire started; I could not give the exact time, it perhaps might have been an hour and a half or two hours, something like that, I could not tell; I don't think it was a good deal more than that; I think I was there that morning before the fire was started; I could not say that I saw the fire lit; I know the still was filled; I was there at the beginning of the operation; I have no doubt that I— I don't know that I could say that I saw the fire lighted. How long after the start of the fire the steam is ordinarily introduced would depend

on how fast the distillation had progressed, and that would depend to some extent on how hot the fire was; this fire was started very heavy from the beginning; the steam would be introduced earlier if the fire had been burning very strong than it would if it had been burning slow; I understand the fire had been burning very strong; it might be as long as three or four hours after the fire is started that the steam is ordinarily introduced; I could not tell exactly; it would not be a great deal less; I should not think it should under any conditions be a great deal less than that; I don't know that I ever fired the still, but I was around it when it was running, and have—what you would call running it; I have tested the distillate in the tail pipes, I think, sometimes; I know I have since that; I can not say that I have ever admitted the steam myself, but I probably would tell the boiler man to admit it.

Q. You do not really know at all, do you, Mr. Beardsley, whether there was steam in that still or not?—A. I think there was not, at this time; that is my best recollection.

Q. That is not what I asked you. You do not really know whether there was or not, do you? If you do, say so, and if you do not, say that.—A. I don't think it was in the still at this time.

Question read by the stenographer as follows: "You do not really know whether there was or not, do you?"

The COURT. So that you can swear?—A. I think it was not, that is what I should—

Q. You do not really know whether there was or not?—A. I should say to the best of my recollection, I should swear it was not in at this time.

The COURT. He wants an answer, yes or no.—A. I should say it was not in at this time.

Q. Are you prepared to answer my question?—A. If the question is to be answered yes or no—is that the idea?

The COURT. Can you swear positively whether it was or it was not in? A. I think I can, that it was not in; that is what I should say.

Q. Now, you know there was no steam in that still, do you?

Mr. MARCY. I submit that he has answered the question.

The COURT. What is the answer?—A. I should say that it was not in at this time.

Q. You know that there was no steam in that still, do you?

The COURT. It can be answered yes or no, or you can say that you can not swear positively.

A. I would just like to say this, perhaps it is not an answer—

The COURT. The question calls for an answer, yes or no, or you can state that you can not swear positively.

A. I should answer no; that is the best I can. I know that I saw the safety-valve; whether I examined it particularly, I can not say; the safety-valve was in plain sight from the ground, and I went over the stills and saw the connections; I do not know that I examined that safety-valve particularly; I think I saw Mr. Miller when he was trying to fix it back again after the vapor had went out; that was immediately upon his return, or very soon after; not immediately, very soon after; he done something with it to make the joint tight with plaster of Paris; he made a mixture of plaster of Paris of some kind; packed it up as well as he could with oil in the still, and then the valve or the disk came close down upon the soft plaster of Paris; there would be particles of the old plaster of Paris in the groove, of course, that had been broken up when it would go back, and then this fresh plaster of Paris was spread around as well as it could be, I think, to make the joint good; I do not know just as to that; I do not think Miller was drunk when he came back there; I do not think he appeared to have been drinking; I know I noticed no appearance of his having been drunk.

I think it was a year or so before we could make an oil that we were trying to make; we might make one kind, and then some other kind we could not make; kept trying to make it, experimenting with it; we were selling oil all the time, more or less; when we were running the still we would have quite a stock, and we often had some shipped back; then we run it again, or tried to fix it in some different way, so that it would be satisfactory; I do not remember just how we did manage that; I think we advertised engine oils and cylinder oils; we were firing some, compounding; we bought considerable; I think we were recommending our oils, because we could not sell them if we did not; we were recommending that we were making different kinds of oils; I could not say that we were recommending them as the best; I know that we were trying to sell the oils; I don't remember just what was done.

I think there were perhaps three or four lots of oil made after this first batch during the time that Miller remained there; I could not say exactly. I don't know that I know anything exactly about the quantity of crude oil that was run by this company at different times; I think that the first year we had run sixteen or seventeen thousand, or fifteen or sixteen, I don't remember just what it was; something like that that we bought of crude oil; I think that was during the first six months, up to Jan-

uary, 1882; something like that; I don't know that I have seen the amount run afterwards, that we have footed it up; perhaps we have; I don't know about that.

Q. Was there any complaint made to Miller on the day that this occurrence happened, and of the first run, when he came back from somewhere else?—A. I remember telling him that I wished he would stay in the yard for us; I was afraid of the still, and I didn't know what to do with it, and I wished he would stay there in the yard and not go out while this was still running; of course I was frightened at this explosion; my brother was there at the time, and the men around the works, in different parts of the yard; I don't think any of the officers or trustees of the company were there, aside from my brother and myself.

Being further examined by the district attorney, the witness said: After the safety-valve had blown off I saw Miller fix it up with plaster of Paris; I think he did, or a man or two with him were fixing it when he came back. I don't pretend to be a chemist. The knowledge that I have derived in regard to the inflammability and explosiveness of gases is from the experience that I have had there at the works, and general information. The crude oil is placed in these stills, heat is applied underneath, and these gases are thrown off into the pipes, which, being condensed by passing through cold water, turns to a fluid, the form of distillate again. There is different degrees of explosiveness in the distillate, according to its gravity. The first of the gases that was thrown over would be very light in gravity, very explosive. I have experimented with these oils by placing a small portion under a lamp and testing it. In testing oils all kinds are tested. The tests of different kinds of oils are put in a cup something like this [indicating tumbler]; some of the cups used are inclosed and others are not; then a fire is put underneath this cup and it is raised to a certain heat, and then, as the gases begin to go off a taper light is passed over it, and at the degree of heat is called the fire test, or sometimes the flash after the fire test; and the different kinds of oil are—

Q. Are these gases that you have made a test of, that you are now speaking about, the same as the vapor that arises from petroleum when coming from the still?

(The defendants objected on the ground that the witness has already declared himself wholly incompetent to tell; that the witness is incompetent to testify to such a question. The objection was overruled, and the defendants excepted.)

A. I suppose they are the same, as they are generated by heat under the oil. They are of the same nature.

(The defendants moved to strike out the answer. The motion was denied, and the defendants excepted.)

I have made tests of the distillate produced from the evaporation of petroleum.

The prosecution here read from a deposition made by the defendant Hiram B. Everest, taken on behalf of defendants in an action in the supreme court wherein the Buffalo Lubricating Oil Company, Limited, was plaintiff, and Hiram B. Everest, and Charles M. Everest were defendants, before Adebart Cronise, referee.

The court ruled that this declaration should be received as evidence only as against the two Everests, and by request of defendants' counsel reserved the question whether it should be received against C. M. Everest. And such reservation applies to the subsequent rulings of the court upon the admissions of the deposition.

The deposition was taken at Rochester on the 8th of January, 1885; the portion read was to the following effect:

The night Miller came down with his wife I think he staid there a couple of hours. During that period we talked about this oil matter and this company. He had not then decided to leave the company, not unless he could get his matters in a satisfactory shape. What he meant by that was to avoid any liability on that five thousand dollar note. I did not understand it was to avoid liability on anything else, and I think he talked of keeping his stock. I didn't talk over with him how he could avoid the liability on that note any more than that I made a suggestion.

(The deposition was offered in duplicate form, both duplicates being originals. Both were received in evidence, and the one offered by the district attorney reads as in the text; the one offered by the defendants reads, "he made a suggestion.")

He had some mortgages and owned some lots, and he would dispose of them and thereby get himself in shape, as he expressed it. I understood this meant to get his property beyond the reach of liability. I told him I could not have anything to do with that kind of business; that all I could do was to advise him to go to some attorney; I knew he was going to an attorney to put himself in shape, as he expressed it; that was to get his property out of his hands; you might call it so.

Q. You say you went with him to Mr. Truesdale, and you told Mr. Truesdale that they wanted to transact some business about this property?—A. No; I told Mr. Truesdale I had come there with Mr. Miller, and he wanted to transact some business; that he had been with us for some time; and Miller told me, "He is my old attorney;" and I said, "All right, then I will go."

Q. Did you employ Mr. Truesdale?—A. No, sir.

Q. Did you ever employ him?—A. No, sir.

GEORGE, TRUESDALE, a witness on behalf of the prosecution, testified as follows: I live in the city of Rochester, and have about twenty-five years or upwards. I have been an attorney at law upwards of twenty years; I have known Albert A. Miller since about 1872 or '73; I have done business for him as his attorney; I know his wife, and also Hiram B. Everest and Charles M. Everest. In 1881—June or July, I think; I would not be positive of the exact date—Albert A. Miller was at my office, 112 Powers Block, Rochester, with Hiram B. Everest; I could not say whether they came in together or not. They were there on two occasions; only Mr. Everest, Mr. Miller, and myself were there at the time in my private office; there was a partition in the room and Mr. Humphrey occupied the other side; I do not know who was out there.

The defendants, by permission of the court, here cross-examined the witness.

Q. Was the interview between you and these gentlemen of a professional character?—A. I should say yes.

Q. They called upon you for advice from you in your capacity of attorney and counselor?—A. They did; at least they asked me questions of law.

Q. And you regarded them at that time as your clients for the purpose of an interview, did you not?—A. I did.

Q. The communications made by them to you were made for the purpose of obtaining your professional opinion and advice, were they not?—A. No other purpose that I knew of, or understood.

By the DISTRICT ATTORNEY. I had never done any business for Mr. Everest. Miller was my client. Mr. Everest had made no prior engagement with me with regard to this meeting.

By the DEFENDANTS' COUNSEL. Mr. Miller had made an arrangement with me before for the meeting.

By the DISTRICT ATTORNEY. Q. State what took place there between you and Mr. Miller.

(The defendants objected on the ground that the communication was forbidden to be received in evidence by section 835 of the Code of Civil Procedure.)

Thereupon the district attorney further examined the witness, as follows: I was examined as a witness on behalf of Hiram B. Everest and Charles M. Everest in an action in the supreme court, in which the Buffalo Lubricating Oil Company, Limited, was plaintiff, and Hiram B. Everest and Charles M. Everest were defendants, before Adelbert Cronise, referee. Upon that reference I testified in regard to what took place at my office on this occasion between myself, Hiram B. Everest, and Albert A. Miller.

By the DEFENDANTS' COUNSEL. My examination was had, because I was ill at the time at my house; it was a deposition taken in pursuance of an order of the court on account of my illness. At that time I think I raised the objection in reference to this interview, that it was privileged communication. (Paper shown to witness.) That seems to be my deposition.

By the COURT. Q. Did you advise Mr. Everest in reference to any of his matters, transactions, or conduct?—A. Perhaps, if I may answer it a little indirectly, there would be asked, perhaps, questions, and Mr. Everest requested me to look up the law carefully on the subject, and he would see me a second time.

By the DISTRICT ATTORNEY. Q. I want to ask the question whether or not you were advising Miller or Everest upon that occasion?

(To this the defendants' counsel objected. The objection was overruled and the defendants excepted.)

A. I advised as to proposed action of Mr. Miller; answered the questions that were propounded by both of them.

The examination of the witness was suspended and the district attorney read further portions from the deposition of Hiram B. Everest, the substance of which is as follows: My home is in Riverside, Cal.; I commenced to reside there in the fall of 1881; prior to that I lived in Denver; I moved there from Rochester in March, 1879; prior to 1879 I lived in Rochester; I was the chief promoter and organizer of the Vacuum Oil Company in the beginning; it was incorporated October 1, 1866; I had the principal management of that concern down to the time I left Rochester; C. B. Matthews, J. Scott Wilson, and Albert Miller were once in the employ of that company; Mr. Miller did his first work for our company in October or November, 1868; he worked two weeks as carpenter; after that he came again in January, 1873, and I hired him to learn the business; his first work was firing the boiler; he was in our employ from this January, 1869, up to March 19, 1881; he was promoted from fireman to stillman, and finally to having charge of the construction.

Mr. Wilson, when he first began to work for the company, had oils from us which he sold; you might call it commission, or you might not; but his first work on a salary began, I think, in September, 1878; I can not give the exact date when he retired; he quit us in the spring or early part of 1881; he was a selling agent of the oils, employed by us.

Mr. Matthews's connection with the company dates, as I recollect, from the winter of 1877-'78; his first work was to go with me to take leases of land in the neighborhood where he lived, in Wyoming, for the purpose of developing an oil territory; during the spring or summer following of 1878 he had charge of putting down the test well on what was part of his farm at that time, and once a part of my father's farm. He had charge of some experiments there in making salt; he afterwards had charge of putting down a well in LeRoy; that was the character of his early work; it changed from that to his moving his family to Rochester and entering into our office or one of our rooms; I have not looked that up, but it must have been in 1879; he had charge of editing a paper advertising our concern; we tried to make it a family paper, but we lost money on it and dropped it; rather, I put him in charge of a patent suit; I think I had commenced it when he came there, but I went away; we commenced a suit against one Cotter, in Pittsburgh, and he had charge of and hunted up the testimony to carry on that case; that was the character of his work; he never engaged to any extent as an agent in selling the goods, neither was he employed as a book-keeper in the office.

I think our books show that Mr. Miller and Mr. Matthews left at the same time; I think it was March 19 that they both gave notice that they were to leave, but Mr. Matthews didn't take pay only up to the 1st of March; the first I knew that these three men had quit was a letter from my son, dated March 19; I was then in Denver; I returned to Rochester, and reached there on the 28th of May, Saturday; prior to that day, and after I learned that they had quit, I had no conversation or other communication with either of these gentlemen, any more than I wrote a letter to my son which he was to read to Mr. Miller; I presume that letter could be found.

After the 28th of May I first saw Miller on the evening of the 30th at my son's house in the city of Rochester.

A portion of the deposition was here omitted as follows (afterwards read by defendants):

The way I came to see him was, the same day that I arrived, the 28th of May, Truman Miller, Al.'s brother, called on me at the house and said Al. wanted to see me, and wanted to know when I could meet him, and where; I told him he could see me on Monday evening at my son's house. He said he would telegraph to Al., as he had promised to do.

The district attorney resumed reading as follows:

On Monday evening at about 8 o'clock, Albert Miller, we call him Al., came to my house.

The district attorney here omitted the following portion of the deposition (afterwards read by defendants):

I received him and my son was present. After the usual greeting I said to him, "Al., what have you come down for; to make me a proposition?" "No," he says, "I have come down to have you make me one." I said to him, "It is too late; I have no proposition to make." He then went on to say that he was sorry that he had left our employ; that he had been deceived as regards the amount of money he was to get as a bonus for leaving. I asked him how much that was; he said that he was to receive from persons connected with the company, or it was represented by Matthews and Wilson that he would get, \$25,000 bonus; he hadn't seen anything of it yet; he also said he had to do all the work of building the establishment at Buffalo, make the plans and order everything, and he was tired and sick of it; he was found fault with by Wilson, and it didn't work as he expected.

The district attorney here resumed reading as follows:

He said further that he didn't want to stay very long; he had to go back that night. I asked him why, and he said he didn't want Matthews to know he had been down to my house. I asked him considerable many questions as regards what he had done there; I wanted to get information. I don't think there was anything said at that interview about his leaving the Buffalo Company and returning to our employ.

That interview ceased at about half-past 9 or 10 o'clock that evening, and he said he would come down again, which he did on the Thursday or Friday evening following; the second conversation was the Thursday or Friday evening following the first one; it was at the same place; my son was present; I recollect particularly he said he would like to make some arrangements with me or my concern to get back from the Buffalo employ, but he didn't think it would be safe to do it for several reasons; one reason was because he had his name on a note for about five thousand dollars, which was in a Warsaw Bank, I believe, and if he should leave them he might be held on that note; another was, that he had put some money into the concern which he might entirely lose.

Q. What, if anything, was said on that occasion about this coming back into your employ?—A. I think it was broached that evening that if he should settle up his business in such shape that he could come back without disadvantage to himself that I would employ him again. He said, "I guess I had better be going; I can't

stay long." "But," said I, "Al, stay all night." "No," he said, "I can't do that; I don't want them to know I have been down." He went back to Buffalo that night, I suppose; he said he was going; he arranged that night to come down the next Monday evening, which was the 6th of June, and to have his wife come with him, and stay over night; he said he would and he did; he came to my house as before, or to my son's house, and his principal talks as regards himself, his relations, connection with the Buffalo Lubricating Oil Company, how he was likely, if he came back to my employ, to lose money; and I suggested he should come to my office in the morning, and I would go with him and his wife to some attorney, which we did do; we went to Mr. Truesdale, who had been his attorney before; I told Mr. Truesdale that my sympathies were with Mr. Miller; that he had got himself into a scrape at Buffalo, and I wished he would do what he could for him, and I retired.

The district attorney omitted the passage following (afterwards read by defendants):

What he did do I did not know until recently I went to Mr. Truesdale to get the date; neither do I know, of my personal knowledge, what was done. That ended my part of his taking care of his property.

The district attorney read further from the deposition as follows:

My next interview with him was on the 2d day of July, at the Union Square Hotel, New York City.

At the last interview that I have detailed, the evening of the 6th of June, I said to him after he had got his matters straightened out and had left that company, I would consider it; I would hire him at fair rates; I didn't say what rates.

The meeting him in New York came about in this way: I wrote a letter, and I must have telegraphed before writing this letter, for I wrote a letter on the 1st of July to my son in regard to Miller in response to some communication received from my son, I could not say what, that when he had left their employ to have him meet me in the East; the reason I had him meet me in the East was this: I had made arrangements to go directly from New York on a limited ticket to Denver, and I could not very well meet him here; either in response to a telegram, or some other information conveyed to my son, he came to New York, leaving Buffalo at 9 p. m., July 1. I received a telegram from my son that he would be there; went to the depot to meet him, but the train was late; went about my business about town; came back and he was there, at the Union Square Hotel. I was going to Boston that night, and I had very little time to see him. At this hotel the first leading question I asked him was this: "Have you left the Buffalo Lubricating Oil Company for good?" He said, "I have." I told him I was ready to talk business with him then; I wanted to know a good deal about it and had very little time; I think the boat goes about 4.30 in the afternoon; I told him if he would go over to Boston with me I would pay his expenses; he did so; we went to Boston together; he said, "Mr. Everest, at any rate I am entitled to a vacation; I have worked hard."

Q. What took place between you as to his going into your employ?—A. I didn't make any definite arrangement what I would give him, only I would be fair with him, neither did I that Saturday night or Sunday following; I talked with him more in reference to what they had done; getting information; the Fourth of July was Monday; we went out on the Common, and we talked a great deal; he had an idea that he must have a larger salary than I thought he ought to have; I think he asked me \$2,500 salary; I told him that I could not give him any more than he had been getting when he left us, which was equivalent to \$1,500 a year; at the time he quit he was receiving \$112 a month and a house to live in, and a barn for his horse, which I considered worth \$3 a week, which made \$1,500 a year, and I proposed to give it him again; and he formally accepted on the 5th of July. On the morning of the 5th I wrote a letter to my son, which I would like to have produced here; the substance of my bargain was that he should work for me indefinitely at \$1,500 a year; I was to give him a year's notice when I wanted him to quit, and he was to give me a year's notice when he wished to quit; he was to do any fair job which I should present to him, either at Rochester or any other place; he made exception that he should not leave coal or dig in a mine for it.

Q. Now, then, what did you set him at?—A. As he was desirous of remaining out of reach of these people in Buffalo, I made an arrangement to leave him there in Boston for a few days; and at his request I told him he could go to the store, and I would arrange with Mr. Reynolds to give him work; he could mix oils, and perhaps tend the store, and let Mr. Reynolds go out and make sales, and if he was successful in that he might possibly remain; we had a branch house there; I left him there, and that was the last I had anything to do with him personally.

The next I had to do with him was when he came to California; that was in June, 1882; he had indicated to me, either by letter or otherwise, I could not now say how, that he would like to go to California to live; and I thought it would be a good thing for our company to have him do so, so I wrote him a letter describing the country somewhat, and saying I would assist him in starting fruit-raising, if he would come

there, and after that I made an arrangement with a canning company—canning of fruits—that he should come there and work for that company—learn the process; he did come in response to my request, at the expense of our company, and went to work for this canning company; that was in June, 1892. I could not say how long he staid in California, but he settled up with me on the 11th of August; he located on a farm where I thought he wouldn't do us any more harm, and I settled with him on the business arrangement made in Boston; bought him off by paying one thousand dollars; I gave him a bonus of a thousand dollars to be released from the bargain.

Miller purchased a lot in the village soon after he came there for the sum of \$1,000; he hadn't the money; he said his wife had the money, and made a draft on his wife to pay for this lot, which I got cashed for him at the bank, but when it went forward for collection, his wife failed to pay only one half of it, and I took it off from his hands; I can not say that this had anything to do with the thousand dollars that I gave him bonus for being released from his bargain. The thousand dollars wasn't paid for that lot; it was paid in to close up the business, and he was to use that in buying a farm in San Bernardino. He didn't like the village lot, and I took it off his hands.

Q. State whether you did or did not hold out any inducement, or say anything to Mr. Miller about leaving the employment of the Buffalo Lubricating Oil Company until after he had informed you that he had severed his connection with it?—A. I never made him any definite offer; I said to him, perhaps a number of times, that when he had fixed up his business, and left, I was ready to employ him again; that was all that I said upon the subject; I never proposed to hire him until he had settled up and quit; I don't know as I should say settled up, decided to leave them for good; perhaps I should explain that in a letter that I wrote from Denver, I did make a proposition there that I would see him safe from any loss if he would abandon the project then, before had gone any further; he had just commenced; that is, just as soon as I got notice—a letter—that he had quit, I endeavored to regain him by making him a special offer, which was read to him in that letter; but I mean to say, after he had gone to Buffalo and was in the employ of that company; that company had not been formed then as I understand it.

The district attorney omitted the succeeding portion of the deposition, as follows (afterwards read by defendants):

In my first conversation with Mr. Miller there was nothing said about his coming back, except that he was sorry that he had left, and I told him that I had no proposition to make.

Q. He said that you stated that it would be only a matter of a few days before the Lubricating Oil Company would be out of existence, that you proposed to commence suit against them?—A. The first part of that proposition I would swear positively I never made, that in a few days the Buffalo Lubricating Oil Company would be out of existence.

The district attorney then read from the deposition, as follows:

I can't say whether that night I said I would commence suits; I have said it repeatedly; as far as I said about getting an injunction, I hoped to get an injunction.

The district attorney then omitted the succeeding part of said deposition as follows (afterward read by defendants):

Q. Miller testified that you said the best thing he could do was to leave them and dispose of his property so that when they got a judgment against the Lubricating Oil Company they could not come on him, so that as a stockholder he could not be reached by a judgment; was there anything of that kind?—A. There was nothing of that sort said at that interview, or any interview, in regard that he had better get his property out of his hands so that our company could get a judgment against him; I never said anything of that sort.

Q. He said that you said you would ruin the company, that they would lose all they had put into it?—A. I never made any statement in which the word ruin was incorporated, or anything of that kind; I never made threats that I would ruin the company, or destroy the company; I said we would maintain our rights in every legal way as far as that; I never said that we would ruin the company; I think I said Matthews was sharp enough to look out for himself, and he must look out for himself; I said nothing about putting his property out of his hands so that it could not be reached by a judgment; he proposed to put his business in such a shape that they could not make him pay this note that he said it wasn't right for him to pay; I didn't advise him whether it was right or not; he said it was not right for him to pay that note, or any part of it; I didn't raise any objection to it, neither did I advise him; I told him I could not do any business of that kind for him, he had better go to his attorney, and if he wished I would go with him; I did, as I testified a short time ago—went to Mr. Truesdale; I think Mr. Miller is mistaken in testifying that in the latter part of June he met me at the New York Central depot, in Rochester; I wasn't in Rochester at that time; I do not think it is so that I went into the car and talked with him about business; I have no recollection of meeting him in the depot; I went to New York the latter part of June, and returned in July.

Q. Miller says in that conversation you proposed to sue them and bust them up,

and for him to follow your advice and he would come off all right; was there anything of that kind said at any time?—A. No, sir; not by me; the term "beat them up" is one of his own coining; he uses it frequently.

Q. He says at this time he was going to Buffalo, and you to New York; when you went to New York did you meet him at the train?—A. No, sir; I have no recollection of meeting him in Rochester; I don't think I saw him after the 7th of June until the 2d of July; if I did I have no recollection of it; all that I did in reference to having him meet me in New York I did through my son; I don't think I had any communication with him, though I might have had; I would not be positive on that point.

The district attorney here read further from the deposition as follows:

Q. He says that at New York you told him he had better telegraph his wife to have her remove immediately back to Rochester, and that he told you that there might be some way whereby Matthews could stop her moving, and that you said, "Telegraph her to move and get her things on the cars before the 5th of July." State if there was any such conversation, and if so, what?—A. There was a conversation in regard to his wife moving from Buffalo to Rochester; he said that he was very anxious to do so, and he wanted her to move just as soon as it was decided that I would employ him. I suggested that I should do, in hiring him, the fair thing, but I could not say just what I would give him; that if she was to move, it would be a good plan to move on the 4th; they could not serve an attachment, etc. I admit saying that. He said something there about a telegram; I told him that I thought it would be a good plan for him to telegraph to his brother and have him do this business, and he said, "You write the telegram;" and I told him I did not write telegrams on such business as that, he could write his own telegrams; he wanted me to look it over, and I did and made one letter a little plainer, that was all. I didn't dictate the telegram; I didn't pay for this telegram; neither did I pay for his coming to New York, but after the time he said he would go into my employ; from that moment I paid his fare, from the time that he said he had left the Buffalo Company for good.

Q. He says that you said if he would leave the Buffalo Company and come into your employ that you would see he did not lose anything, and that you would give him the same salary that he had been getting, on the 4th of July?—A. I never made him any definite proposition, except to pay him \$1,500 a year, and with that he wasn't to go back into our works unless I saw fit. I did not say anything to him that he should not lose anything by this transaction; not that time. The only time I said that was in the letter to my son, written on the 25th of March.

Q. He says that he said to you that they would probably sue him, and might get a judgment against him for damages for leaving, and that you said you would see to that, and that he should not lose anything by the Buffalo Lubricating Oil Company.—A. Not in that form, nor to that effect. I told him I would stand by him as far as I could legitimately.

Q. Was there anything said about your protecting him?—A. Not in a financial way, sir.

The district attorney here omitted the succeeding portion of the deposition, as follows (afterwards read by the defendants):

Q. He says that you stated that it had gone so far that all there was about it now was that you would have to crush them by suing them, and it was only a matter of a few days before they would be out of existence.—A. I never made such a statement as that, sir. As near as I can remember, he said himself that it would be a hard matter for them to get anybody to fill his place. I did not say that; I think not. I could not swear positively to that. I have endeavored to think these things out; but could not swear positively on that. I did not say anything to him to this effect, that I would resort to all the means I could to destroy the company. I never used the word "destroy" in connection with the Buffalo Lubricating Company; it is not in my vocabulary. I said nothing to Miller further than I have stated, that I would use all my means to protect my legal rights. I have never put it stronger. At Boston he didn't want to be known. There was nothing said by me that he should not let himself be known. That was his request that I should not give him away. He didn't even want to write home to his wife and have it mailed at Boston.

The district attorney here read further from the deposition, as follows:

I introduced him to Mr. Reynolds by the name of Milliner. I did that because he wanted me to. He was told to go to work in the store, so that Mr. Reynolds could go out and sell oils, and thereby make himself useful. I might say in regard to this introduction that Mr. Reynolds well knew it was Mr. Miller. It was only a joke.

Q. Miller says at a conversation he had with you out in California you said that if he had let you know about it and let you manage it, you would have broken them up. The way he worded it was something like this: If you had had the management of it you would have let them go on and let him remain in your employ, and let them get in the middle of the stream, and then tip them over and drown them. What is there about that?—A. I have no recollection of any such statement as that.

The district attorney here omitted the succeeding part of the deposition as follows (afterwards read by the defendants):

Q. Or anything like that?—A. Nothing that I remember of that they could construe into any such thing as that. Well, I will say this, if I have a right to say it, I was fearful of his faithfulness to me all the time; and being in that state of mind I should not have left him—

I have copies of the papers that were exchanged at the time that he and I settled in California. [Producing them.] Miller made this statement: "Mr. Everest, you have always been kind to me, and I shall do nothing to injure you, but I am going to bust the Standard." I said, "Al, how will you go to work to do that?" "More ways than one," he said, "they can not afford to let me loose;" he said, "I shan't be bought off, either, unless I get something for it; it will cost them more than twenty-five or fifty thousand dollars before they get through with me." I said, "Al, I think you can make more money raising fruit in California than you can fighting the Standard." This conversation was had immediately after I paid him the thousand dollars.

The district attorney continued to read the rest of the direct examination of H. B. Everest in the deposition, and the beginning of the cross-examination, as follows: On the 5th of July, while I was in Boston, I wrote my son a letter containing the substance of my arrangement with Miller; early on the morning of the 5th I wrote out our agreement, as we had talked it on the 4th, and read the paper to him; he assented to it, and I sent it home to Charles, as the basis of our agreement.

Cross-examined: I was not originally president of the Vacuum Oil Company; I was superintendent, and had the full management of the business; my brother-in-law, Mr. John D. Helmer, was president; I had general superintendence under the name of secretary; just when I came in as president of the company I think was about the time I went to Denver, in about 1879; I held just half of the stock in my name up to July 25, 1879; my son held two shares, I think, and that made a majority, what I and my son held; my brother-in-law held some; he owned twelve shares; my sister owned some.

Q. Now when was it that transfer was made to that company, the Standard Oil Company?

(Counsel for the defendants objected on behalf of each of the defendants Everest to this question, and to all that follows in said deposition, down to the words, "that do you any good," as incompetent as against C. M. Everest, and immaterial as against H. B. Everest.)

A. The transfer of a portion of our stock was made July 25, 1879, not to the Standard Oil Company, but to a trustee, who might have represented the Standard's interests; his name has gone from me; he is an attorney in New York.

Q. As you understood it, it went to the Standard Oil Company?

(To this question the defendants' counsel specifically renewed the last objection, which was overruled, and the defendants excepted.)

A. It went to the Standard Oil Trust; the Standard Oil Company is an organization of Cleveland.

Q. Now, then, who did you understand then controlled this interest which was transferred at this time, in 1879?

(To this question the defendants specifically renewed the last objection, which was overruled, and the defendants excepted.)

A. The Standard Oil Trust; you probably know as much as I do about what is the Standard Oil Trust.

Q. Well, is it what is commonly understood as the Standard Company?

(To this the defendants specifically renewed the last objection, which was overruled, and the defendants excepted.)

A. I can not say. I continued after that as president of the company, and one of the directors.

Q. Do you know whether the balance of the stock, in addition to what you yourself had, and the others, went to the Standard Company?—A. I suppose I could tell all about it, if necessary. In the sale of the stock of the Vacuum Oil Company to the Standard interests (if you please to have it that way, I can not say, Standard Oil, Standard interest, or Standard trust), there was three-fourths of the whole value or capital of the concern transferred; three-fourths of mine and three-fourths of the other stockholders. I used my own judgement, and they all acquiesced in it, and we concluded to sell it; the same amount of stock is now owned by each stockholder that was after the transfer of July 25, except what has been changed from one name to the other, from the trustee to the Standard Oil Trust; and there were three men, Henry H. Rogers, A. M. McGregor, and John D. Archbold, I think those are the names that held then, and do now, five shares each of the stock of our company; they are directors of our company; I don't know anything about whether they are directors of the Standard Oil Company.

Q. You have no understanding on that subject, and can not tell?—A. I don't know anything about the Standard Oil Company; I don't know anything about John D.

Archbold's relations, only that I have understood, if you will have it, that he is a member of the executive committee of the Standard Trust; that do you any good?

Miller had been at work for us since 1868; at the time when he left our employ, when this company was formed, he was the man in charge of the stills and some other work; he was a competent man for that business, and I should hardly say that he had the management of the stills wholly; Mr. Patterson had the management when he run them, Mr. Miller when he run them; Miller was promoted from firing the boiler to running the still within three months after he came to us; he run his shift with the others thirteen years, except when he was away; Patterson came in there to learn the business, and was called as good a man, if not better, than Miller; he was employed there when Miller went to the other company; when I went away, in 1879, my son took the position which I had been occupying and has continued under it since; he has since that time been, and is now, the real manager of the company; I have been its nominal head; at the same time I was consulted about a great many things concerning the business, and I gave him a vacation occasionally and I ran the business; I knew enough about the business at any time to step in and conduct it, and do now, and did so at these periods.

I hadn't been here for two years when Miller went away to Buffalo, except to relieve my son on vacations; so far as I know, when Miller, Matthews, and Wilson left, we contemplated continuing all of them in our employ the same as before; I have no knowledge, from the active management here, whether there was any intention of dispensing with the services of some of them, Matthews or Miller or Wilson; I had no information about it; I don't think I had been consulted about it; it hadn't been the subject of consultation, no more than my son said at one time that he didn't think Matthews was of so much importance to our company as I did; I could not say what my son said about the importance of Mr. Wilson; I had said nothing that I know of; nothing was said upon the subject of Miller; he was a fixture in our company; Mr. Wilson was hired by the year; Miller I had made some other arrangements with before I went away and I supposed it continued; the change had been, instead of paying him by the hour and a bonus at the end of the year, it settled down to a certain amount a month.

When I first heard they had quit I was in Denver, and wrote to my son; he wrote to me that these three had quit.

Q. And you say then you undertook to stop the formation of the partnership, and to retain them in your employ?—A. No, sir; I didn't say that; I undertook to retain Miller in our employ; I did not undertake to retain the other two; I can not say that I desired that the other two should start an oil business at Buffalo.

Q. Independent of Miller, they were not at all formidable?—A. Mr. Wilson had some knowledge of manufacturing oils, but not much, particularly Matthews.

Q. Mr. Miller was the only one you cared to retain?—A. Mr. Miller was the one who understood our methods, and to have him go to them, or any other corporation, and give away our processes, and show other people how to make our goods, would be very damaging to us; and he had given us no notice of leaving, and I thought it no more than my duty to the company to use every effort reasonable to prevent him from leaving; that was my idea at the time I wrote this letter from Denver; just that.

Q. Did you think that the Buffalo Company would be able to go on and continue business without Mr. Miller?—A. I wasn't aware that the Buffalo Company had been formed.

Q. Did you at that time regard Mr. Miller as being indispensable to that company, assuming that one had been formed?—A. I didn't regard it in that light; I was looking at it if Mr. Miller left our employ and went anywhere to making our goods, and gave away our processes it would result in great damage to us, and for that reason I was willing to pay him an amount.

Q. I ask you if you did not think that the success of the company depended upon Miller's remaining?—A. If I had given it consideration, I should have said that would be the result, sir; he had practical knowledge of the business; there is no doubt about it; I don't think Matthews could have gone to the works and run oils, not unless he employed Mr. Miller or some other man.

At the time I received notice about Miller, I had no information only this letter from Charles; that letter stated that they expected to go to Buffalo to build oil works; I don't recollect whether it said they formed a company or partnership; he stated that Matthews and Miller and Wilson had all left our employ; that they were going to Buffalo to build works; I did not, when I wrote that letter, consult with any person with respect to his letter; after writing the letter, and before I met Miller on the 30th of May, I didn't consult anybody but Charles; I did not consult personally with Mr. Archbold at that time; I might have talked with him on that as I did on all our business matters when I met him in New York; I could not say that I did; I don't think I did talk with him in respect to Miller; I couldn't say whether I did or didn't.

I had my first conversation here with Miller on the evening of the 30th of May;

he came down to see; he told me in regard to what they had done and what they were doing, but I could not say now just how much he said they had done. I think he said they had the stills there at that time. I tried to find out how much money was going in it, and who was in it, and I remember he said there was a man by the name of Benedict, of Lockport, had gone in; I think it was on this first interview, but I wouldn't be positive; I inquired of him as to how it was being constructed, if they were building a vacuum still—either at that interview or some other; I wanted to know how they were building the works, to see if they were infringing on our patents; Miller didn't give me full information on that subject; he didn't have time at that interview, nor any of those interviews; I did not suggest his coming again; he suggested it himself; I said that was all right, I would like to see him. I think I told him the first or second time, when he came down again he had better come so as to stay longer, I wanted to talk with him about these works; he told me on this first occasion that he did want Matthews to know about it; he did not state the reason why; I did not ask him; I can not say that I understood particularly what his reason or motive was; I don't know as I ever gave that a thought, as to what his reasons were; it was spoken about the third time, and Matthews knew, I guess; I didn't know whether he did or not; he brought his wife down; I can not say that I made any reply to it, when he said he didn't want Matthews to know; I could see naturally, anybody could; I did not know whether or not Matthews knew anything about our talk together, my negotiation with him, I didn't ask him. As to the first two, I understood he didn't want Matthews to know; as to the third, I understood that, because he came down and staid longer—staid over night—and brought his wife with him. It is not from that circumstance alone; I had suggested that it would be better for him to come and stay all night and bring his wife with him. I could not say Matthews knew, as I remember, only what he said himself; I said nothing about it.

Here follows in the deposition the portion read by the district attorney immediately before George Truesdale was called as a witness. The district attorney proceeded with the cross-examination in the deposition, as follows:

What I have stated here now is the only thing I remember of having to do with Truesdale. Miller's wife was with him, and went with us at that time; I could not say whether Charles went or not; I don't think he did; I don't think I remained in that office over five minutes; I didn't hear the details of the transaction; I didn't wait to hear it; I did not know how long Miller was there; Miller had said that the company might sue him for damages for leaving them; he didn't say anything about judgment; neither did I. He seemed to think they would sue him for damages; he said that to me; I could not say whether I made any reply to it or not.

The district attorney omitted the succeeding portion of the cross-examination in the deposition as follows (afterwards read by defendants):

Q. Did you say anything to him upon that occasion? Did you tell him that he could—that this still could be fixed so it would blow up?—A. No, sir.

Q. Did you say that?—A. No, sir.

Q. Did you hear any such conversation as that between Miller and any one else?—A. No, sir; I never heard any such conversation.

Q. Or that suggestion?—A. No, sir.

The district attorney proceeded from this point with the cross-examination, as follows:

Q. Did you hear any suggestion, either from Miller or any one else, that the pipes in the stills could be misplaced?—A. I heard Miller say once that he could fix the pipes so they would not work as they ought to. That was at one of these interviews, I think the last. I could not say now when that was, with respect to the time when he transferred his property. I know I made no reply to it. I can not recollect the time; I simply have an impression that he said he could change the pipes in the still. I can not say when he said it; I made no reply to it. I thought it would be a very scandalous proceeding.

Q. You understood by the misplacing of the pipes what would be the result?—A. That would depend on how they were misplaced.

Q. You say it would be a scandalous proceeding. How did you understand the pipes would be misplaced?—A. I don't think he wished to do damage to the company.

Q. How could damage result?—A. That would depend on how they were misplaced. By putting the pipes wrong side up the performance would blow—

Q. Would either blow the oil over?—A. Yes; might not work properly.

Q. That is, the oil when hot?—A. Yes, sir; might take place so as to do damage.

Q. And if it blew over it would blow it so as to blow everything all to pieces?—A. No; I don't think you could misplace them so as to blow everything to pieces.

Q. Take the still; what would be the effect of any displacement of these pipes which might be made in this still?—A. As I said before, it would depend on how they were misplaced.

Q. As I understand, they could be misplaced so they would puke the still ; so it would not refine and make good oil ?—A. It wouldn't work properly.

Q. Now, is there any other way by which the misplacement of the pipes could result in damage ?—A. I can not conceive anything that could be done ; I should not know how to go to work to misplace pipes to blow up the still.

Q. It could be fixed by a misplacement of pipes to blow off the safety-valve ; that would bring the oil in contact with the fire, would it not ?—A. I don't think so, unless you should stop up the outlet.

Q. That could be done ?—A. Yes ; you can burst anything if you try.

Q. That would depend on the heat and the temperature, would it not ?—A. If you stop the outlet long enough it would be bursted, and that would blow the whole thing up. Miller did not say that he was at work during the day, the two evenings he met me ; I did not so understand it ; I don't know whether he was at work or waiting for matters to develop ; I can not locate to you definitely the occasion he spoke to me about that these pipes might be misplaced ; I can not say but he made that remark to me in New York ; I can not say but he did ; I suppose after that conversation he went back to continue in the employ of the Buffalo company ; I did not send anybody up with him. All I can say about meeting Miller in the depot previous to meeting him in New York is, I have no recollection of meeting him there ; I certainly did not meet him after the 26th of June ; I don't recollect a conversation in which I told him when I was going to New York.

The district attorney here omitted the succeeding portion of the deposition, as follows (afterwards read by defendants):

I did not, at any time, send any person up from here to see Miller ; I never heard whether or not my son did ; I can not say that he did to see Mrs. Miller ; it was not until after I received C. M.'s telegram that any steps were taken for removing Mrs. Miller from Buffalo ; that was the first I knew about it ; I did not send a telegram ; I was telegraphing to Charles two or three times a day ; I presume I telegraphed that if Miller wanted to see me he would have to come to New York, or meet me in the East ; I could not say how long it was after the conversation in which he spoke about the displacement of the pipes that I sent word to Charles ; I am not clear on these points ; there was correspondence and telegrams going on between us ; I would not be so positive that Miller told me that ; my son may have told me ; I had that impression about displacing pipes ; it was after I went to New York that I, of course, informed Charles that if Miller wanted to see me he must come East ; when I sent this telegram for Miller to come, I supposed he was in Buffalo ; I have no recollection of any definite telegram ; only that if he wanted to see me he must come East ; I have no recollection whether or not at any time I telegraphed to Mr. Miller, or Mrs. Miller, at Buffalo ; I received a telegram that he would come to New York on the 9 p. m. train the 1st of July ; I received that from C. M., and the next day I met Miller there ; he left Buffalo at 9 p. m. I suggested that if Mrs. Miller left Buffalo on the 4th they could not get an attachment ; I thought he had better not wait.

Q. There was a conversation that the company might make some trouble for Miller and his property ?—A. I said Matthews might do something to bother him ; this telegram was written by Miller, and I fixed one letter, and that was sent, and that was a telegram to her to move ; I think I suggested that Truman, his brother, had better go up and help him ; he was then at our works ; he is still in Rochester ; I think that that telegram designated that Truman would help ; whether he did or not I don't know ; I can not say how I got word to Truman ; think there must have been a telegram sent to Truman, if you reason it out in that way ; Miller and I didn't talk that night in the Union Square Hotel ; we went on to the steam-boat, which leaves at 4:30 or 5 ; we didn't stay very long at the hotel ; we went to Boston ; I registered my name and friend because he wanted to be two. ; I was perfectly content that he should keep out of sight of Matthews ; it would be a reasonable conclusion that that was what it was done for ; I didn't take him to Boston for that purpose ; I took him to have that conversation and additional ; I wanted to have him tell the whole story about his connection up there ; about what they were building, how they were infringing, and how they were going to infringe, on our patents ; I anticipated a great deal of trouble ; I thought it was better for me to hire him back, if I could, and keep him away from that concern and others ; I didn't introduce and register in that way for the purpose of concealing his whereabouts ; not particularly for that ; I don't say that I was opposed to it ; if I had been I should not have done it ; I had a talk on the 4th of July—that was after we were registered, of course ; I was to give him the same salary as before ; while he was in Boston he was to get pay of Reynolds ; I arranged that when he wanted money, Reynolds should get it for him from Rochester ; he was to apply to Reynolds and Reynolds should send to Rochester ; I told Reynolds what his wages were ; there was no direction made at that time as to any payment to be made to Mrs. Miller ; there was afterwards ; then I left him ; I received no report from him at all, nor from Reynolds ; he had to report all moneys in general

that they received and paid out; there was nothing peculiar about Miller's case, only he was to work there and receive his money from Rochester; I don't recollect that he was to report any special case about Miller. I told Reynolds to entertain Miller; there was nothing said about going to the beach; I don't remember about "letting him get lonesome"; I told him he was to put up oils; he was to do as much work in the store as he could, and let Reynolds go out and sell oils; that would be quite a benefit; I don't know whether there was anything said about Miller's getting homesick down there; there might have been; I haven't had that brought to my mind; I can't say whether I told Reynolds to see that Miller didn't get homesick; I am apt to say many pleasant things; I don't know whether I said that on this occasion; it would be just like me.

From Boston I went to New York, Saratoga, Philadelphia. I was in that vicinity until the 23d of July; I don't remember as I had anything to do with Miller; I didn't communicate back to any person, except my son, where Miller was; I had no conversation with Mr. Archbold about it; I saw Mr. Archbold in New York upon my return from Boston; I had no conversation with him about Miller anything more than that I had hired him, nor about the Buffalo company; we didn't talk about such a matter as that. I presume I saw him four or five times after I left Miller at Boston, each time in New York. I did not see any other members of the executive committee that I knew to be members. I do not know. There are reports of sales of the Vacuum Oil Company made to certain parties in New York; I could not say whether the reports are sent to McGregor, Archbold, or Rogers; I could not say whether to one of them; might be to some of their clerks; they are made out and sent. We have agents upon the road for the Vacuum Oil Company; they do not make reports to the Trust Company; they are employed by us and report to us; they do not report to any one else besides us that I am aware of; I do not know as I could tell how many actions we have commenced against the Buffalo Lubricating Oil Company; probably three or four; no more than was necessary to maintain our rights; might be five. They undertook to group some of these patents and make one suit of them.

The district attorney here omitted the succeeding portion of the cross-examination as follows (afterwards read by defendant):

Q. Now, did you in any of these conversations which you had with Miller state to him that you were going to sue the company, and that it would be only a few days before it would be out of existence?—A. No, sir; not in that language, nor that in substance. I told him that we intended to notify these parties, and to begin suits against them to maintain our rights, and that we probably should get an injunction, as we have already obtained one; it would not stop their doing business. I did not tell him that would result in the stoppage of their business; I told him the same as I would tell anybody, so that he would know; I did not tell him so that he should understand that this company was to be broken up in their business; I didn't intend that he should understand that I was doing anything with the intention of breaking up their business. We intended to maintain our rights, and we were frequently spoken to about this concern and I always said we should endeavor to maintain our rights. The case that I employed Matthews on was the Cotter case. We commenced it against Cotter at my own request; that was before the Standard Oil Trust had any interest; it was not at their request, nor that of any person in their interest; they were not anxious to have that commenced, I don't think, at that time.

Q. At the time when you brought these actions against the Buffalo Lubricating Oil Company did you know that there were other parties who were using the same processes as the Buffalo Lubricating Oil Company and making the same oils?—A. The Buffalo Company first built the apparatus.

Q. That were making the same kind of oil as the Buffalo Lubricating Oil Company by the same processes?—A. I don't think there were; I am positive that I don't know. You see these processes vary so much. There were parties making similar oils by processes a little different, substantially the same so far as the vacuum process is concerned. I don't think I brought any action against anybody else than Cotter; it wasn't necessary as long as this suit was going on. The Cotter suit was brought a long time previous to bringing these suits.

The district attorney here resumed the reading of the cross-examination in the deposition, as follows:

Q. Did you at any time say to Miller that you would protect him in any way?—A. Yes; I said it in that letter of the 25th of March to my son.

Q. Did you at any other time?—A. I said that I would assist him, give him advice, in helping him out of his difficulties, no way financially.

Q. Now, at that time when you were talking with him, you thought it would be a hard matter to fill his place with this company?—A. Well, I was in hopes it would.

Q. You thought, in point of fact, it would, didn't you? You thought it would be a hard matter to fill his place?—A. I wasn't working in the interest of Matthews; I

couldn't say I thought it would be a hard matter; I don't recollect. They were trying to get men from our works; I thought at that time it would be a very hard matter to fill Miller's place; I do not know of my own knowledge of Matthews trying to get men out of our works; I was not present; all I know is what men have told me; Patterson has told me, Charles, one other. I can not say whether Matthews had any conversation on the subject of Patterson leaving our employ, only as I have been told.

When I said to somebody that I thought this Buffalo Company would have a pretty hard time of it, I meant there was a good deal of competition in the business, and they didn't understand it well enough so that they could go forward and make the success they thought they could. There was no other reason; that is all; other works starting out has caused a competition; these are not the only works that have been built; my son says there have been quite a number; when I made that statement I had in my mind at that time that the hard times which they would have simply grew out of the legitimacy of the business, and that we should endeavor to maintain our rights, and that we might serve an injunction, so that they could not use the fire test, for instance; there might have been some other reason; that was the chief reason that they would not succeed; I always liked Matthews pretty well; pretty good fellow; I didn't in any conversation that I had with Miller say anything about tipping them over in the stream and drowning them; if I ever made such a remark, it was in a playful manner; I am in the habit of making playful remarks; if I made any such remark, it was in a joke.

The district attorney here omitted the succeeding portion of the cross-examination, as follows (afterwards read by the defendants):

Q. Now, will you tell me whether Mr. Miller, when he told you that he would injure the Standard Oil Company, did you understand that he could be of any injury to you if he did?—A. If he busted the Standard?

Q. Yes.—A. Would not injure me a particle if he busted the Standard—busted the whole thing.

The district attorney resumed the reading of the cross-examination as follows:

Q. You didn't pay him up to settle with him until he got this farm?—A. I suppose he was going to get this farm and live there; when I paid this thousand dollars bonus, I hoped he was located there, and that I would not have any more trouble.

The district attorney here omitted the following passage from the cross-examination (afterward read by defendants):

Q. From the time you employed, down to the time you left him in California, did he do any work for you of the character he was doing before he left the works and went to the Buffalo Company?—A. No, sir; after his leaving the company we didn't dare put him there for fear he would be traitor to us. We carefully avoided putting him in a position whereby he might do us still further injury.

The district attorney resumed the reading of the cross-examination, as follows:

We tried to keep him in work that wouldn't do injury, because we couldn't have confidence in a man who had betrayed us once. I owned five thousand dollars stock in the canning business which I put him in in California. The Vacuum Company had no interest in it, nor the Standard. I think he was paid in the canning factory \$75 a month. I am not positive what they did pay him, but whatever they paid him, the Vacuum Oil Company paid the balance. His labors were not of much importance to the Vacuum Oil Company.

Q. Were his services, previous to that, of as much value to the company?—A. Well, yes; when he was putting down the salt well, and they might have been in Boston. I didn't have very much to do with him.

The defendants' counsel here read in evidence the portions of the foregoing deposition which had been omitted, as above stated, by the district attorney.

The witness Truesdale was here recalled by the prosecution for further examination.

Q. You may state, Mr. Truesdale, the conversation you had there on that occasion.

(The defendants renewed their objection to his testimony in regard to the communications passing between himself and the defendants Everest. The objection was overruled, and the defendants excepted. The witness thereupon proceeded.)

A. Mr. Everest stated that Miller had left his employ and got engaged with another oil concern in the city of Buffalo; that he desired to get back again; he wanted him to come back; and he said he supposed Miller had explained to me his situation and the obligations he was under to the Buffalo Company. I told him that he had made some statements to me about his contract with the parties in Buffalo; that he had spoken about being an indorser or party to the note made by—I think he said Matthews and Wilson and himself, and I think another party, four or five of them had made; indorsed a note to raise money, done to start the Buffalo business, and that he had a contract or an agreement with them to go into a company at Buffalo to manufacture oil, and that he wanted to know how he could get out of that arrangement. I stated what I had said to Miller, that he would,

of course, be liable on the note if he was charged properly, when it became due, and that if he wanted to get out of that arrangement, my advice to him had been to see if he couldn't get released; if they wouldn't release him, or buy out his interest; that if he couldn't do that, the only other way I saw was for him to leave them, and take the consequences: I told him that I did not know the exact terms of his contract, but if he had entered into a contract and violated it, I presumed there would be a liability for damages as well as a liability for the debts of the Buffalo party; Mr. Miller and Everest both talked on the subject, and Mr. Everest says, "I think there is other ways for Miller to get out of it." I told him I saw no way except either to back out or sell out—no other honorable way; Mr. Everest says, substantially, I think, in these words: "Suppose he should arrange the machinery so it would bust up, or smash up; what would the consequences be?" something to that effect. "Well," I says, "my opinion, if it is negligently, carelessly done, not purposely done, he would be only civilly liable for damages caused by his negligence; but if it was willfully done, there would be a further criminal liability for malicious injury to the property of the parties, the company." Mr. Everest said he thought there wouldn't be anything only civil liability, and said that he would. He referred to the fact that I had been police justice, had some experience in criminal law, and he said that he would like to have me look up the law carefully on that point, and that they would see me again; there was conversation about Miller getting his property out of the way of an execution by turning it over to his brother or his wife. "Well," I told him, "that might be a hindrance, but unless it was a bona fide sale it wouldn't protect his property, and only might possibly be a hindrance to his creditors in making collections;" he said that it better be done, be some help—something to that effect; there were statements made about what Miller had done, I think; before that he had given me power of attorney to dispose of his real estate and some bonds and mortgages that he held when he moved to Buffalo, and there were some sales made, I think; as I understood it, he lived in Buffalo at the time of this interview—had for some time; it is my impression that his power of attorney was given before he moved to Buffalo; it is my best recollection that it was given in contemplation of moving from Rochester, to leave his business in my hands before he moved to Buffalo; there was a good deal of talk on the subject of his property; I think that is substantially all that occurred at this first interview.

Q. What statement, if any, did you make to Mr. Everest about his criminal liability?—A. One or the other—it was at a subsequent interview—I do not know—the next day or two they called again, Mr. Miller and Mr. Everest—both the Messrs. Everest; as I recollect, they were both present the second time, and Mr. Everest wanted to know if I had looked up that matter, and I told him I had looked it up; he asked me what I thought about it; I told him my impression was not changed; that such a course as that would involve Mr. Miller in a criminal liability, if he did it on purpose, and everybody who advised him or counseled him of such course would be equally liable with him, and the consequences were if they followed that course they would get into State's prison. I says, "Mr. Miller, if he is an honest man, won't think of taking any such action as that;" and I told him I would advise him to keep out of any such thing; and Mr. Everest says, "Such things will have to be found out before they can be punished;" I told him I thought the suggestion was altogether wrong, and the action would certainly be very hazardous as well as wrong; I think that is all there was, substantially.

By the COURT: Have you given us the date of these interviews?—A. I have not; at the commencement of my testimony I stated that the interview was somewhere in June or July, 1881; it was while Miller was in Buffalo, as I understood it; that is all I recollect.

By the DISTRICT ATTORNEY: Q. What was said by Mr. Everest, if anything, about it, that they would have to catch Miller first, when you told him it might land him in state's prison, or something of the kind?—A. Well, he said they would have to find it out, or something of the kind.

Q. State whether or not anything was said there by Mr. Everest, to this effect, that they would have to find him, Miller, first, and that "We will take care of him;" or that "We will or can take care of him?"—A. Yes, sir; that was said, substantially, that they would protect him: "We will protect him and take care of him." I afterwards learned that Mr. Miller was in Boston; it was a short time after these conversations; I can not give the exact time; I learned it from C. M. Everest; I had occasion to bring an action against Mr. Miller upon a note, and called upon Mr. Everest for his address; he gave me Boston; I don't know the particular location in the city.

Upon cross-examination, the witness said:

Q. How many times did either of the Messrs. Everest call upon you with Miller?—A. Twice; only twice that I saw them there at my house; these calls, I think, were a couple of days apart; one or two days; my present impression is that it wasn't more than that; it wasn't very long after that that I heard Miller was in Boston;

I can not tell about how long; I commenced an action, and I could tell by my register, but I did not look at it; I can not tell here from my recollection; I have no memorandum with me here which would enable me to say about how long; I think it was more than a week; it was some little time; I know that I did not have the note at the time; perhaps some weeks afterwards, how many I am not now able to say; I should think it was something more than a week, probably; the first interview, at which only H. B. Everest was present, lasted a good part of the afternoon; I could not say exactly how long; I think it was a little before that that these two powers of attorney to me had been executed; I don't know that there was two; I think there were two; which was first I can not state; I think there were two executed a short time apart; they were drawn, as I stated, to enable me to dispose of his property without bringing him and his wife from Buffalo; they were intended to be bona fide sales to get the money for him to use in his Buffalo business; they were not, so far as I know, executed for any improper purposes.

I am not able to say how long after the execution of these papers the first conversation was; the first interview lasted from shortly after 2, I think, until in the neighborhood of half-past 4 or 5; I guess it was a couple of hours, or an hour and a half; the second interview, in which both the Everests, as well as Miller, took part, I think, was a shorter interview; perhaps it was an hour, or such a matter; there was a good deal of conversation; I can't give the exact time.

Q. We must infer then, that what you have given of the conversation in the two interviews is only a very small portion of what passed; isn't that correct?—A. Well, Miller and Everest talked a good deal apart; during that time I was taking no part in the conversation, not specially; I am quite sure they talked a good deal that I didn't hear; didn't attempt to; I don't remember whether during that time I was attending to other affairs; I don't remember whether I was attending to any other business at that same time or not; I think Mr. Everest opened the conversation, and he opened it by telling me of Miller's leaving him and going into a Buffalo concern, and that Miller desired to get back to his employment.

Q. Did anybody say anything in response to that remark, either you or Miller?—A. Well, the fact that Miller had been and interviewed me before was referred to; I don't know whether it was just then or not; the fact was referred to that Miller had before expressed to me a desire to get back, but this was the first time that I had heard anything from Mr. Everest about his desire to get back; I could not say how long before it was that Miller had told me; I think it was that morning; both these interviews was at my office in Powers' block; Mr. Bernhard, whose name is signed to the acknowledgment of one of these instruments, was a clerk for Mr. Humphrey not far from that time; while I occupied a part of that office he was a part of the time a clerk for Mr. Humphrey. I told Mr. Miller and Mr. Everest that if Miller violated that contract with the Buffalo company he would be liable for damages such as the company might be able to establish against him in an action.

Q. Did the conversation proceed as to protecting Mr. Miller from the consequences of such a breach of contract if he should make up his mind to commit it?—A. I think it was mentioned in that connection; as they talked further on the subject, and considerable part of the discussion was how to avoid those claims for damages; I think it was stated by Miller that they could not get along without him, and if they could sue him they probably would, if he left; I think something was said about discharging Miller, and about his escaping liability for leaving them if they should turn him away; in that connection it was spoken of substantially to the effect that they were not likely to discharge him because he was a useful man to them, or something to that effect.

Q. Then was it not suggested that if he should show himself to be a careless, negligent man they might be glad to get rid of him?—A. Well, that was the natural inference.

Q. And that was what they were talking about, was it not?—A. In the direction of being a manner of getting out of his contract or his arrangement with the Buffalo parties.

Q. It was in that connection that the question was asked in regard to his being careless about the works, so that some derangement should occur and they would dismiss him and get rid of him, or words to that effect?—A. I don't know as there was words to that effect, but—

Q. That was in substance, was it not, what was talked about?—A. Well, as I said, I don't know as it was expressly mentioned in that manner, but that was the inference I got from what was said; and in that connection I answered that if Miller should do anything purposely to injure the works at all that he would become criminally liable, and that those who took part in it would become criminally liable.

Q. And Mr. Everest said that for such small carelessness as would cause them to want to get rid of him, he didn't suppose there could be criminal liability, or sub-

stantially that?—A. In substance that; if it was carelessness merely, he would not be criminally liable.

Q. Do you not remember whether at one of these conversations Miller declared, in the presence of one or both of the Everests, with strong emphasis, that he would under no circumstances do anything that would bring about a criminal liability?—A. Well, I could not say that Miller made any remark on that subject; he might have said so; I could not say that he did nor did not.

Q. You have said that Mr. Everest said in relation to Miller, "We will protect him; we will take care of him," or something of that sort, have you not?—A. Yes; I understood by that that he was to protect him from loss by any judgments that might be got against him.

Q. That was all that you understood from what he said, was it not?—A. Well, I don't know as I could say it was all; the expression was at the time used in that way, that "we will take care of him."

Q. It was on the 4th of March, 1885, that your deposition was taken, was it not?—A. About that time.

Q. On hearing your deposition read over to you did you yourself require this addition to be made at the close of it before signing: "The talk about taking care of Miller was in reference to suits against him for damages for violation of his contract with the Buffalo company, and upon his liability as a member of the company. I don't think it was used in reference to protecting him from any criminal liability?"—A. Perhaps I so stated; I presume I so stated as it seems to be; I might have so stated; I think I was able to sit up when that was taken; I had been sick abed; I could not say whether I requested Mr. Cronise to sign my name for me when he administered the oath; I know I was sitting up and I guess dressed; I could not say that I know Cronise's signature.

(Witness shown paper.)

Q. Please look at the changes made throughout that deposition and noted in the margin with the initials "A. C.," and see then if you are not satisfied that this is the original deposition to which you swore?—A. It seems to me the original deposition was written by Mr. Cronise at my house at the time, and it was not type-written; I could not say whether it was taken by a stenographer.

Q. Upon examining this again are you not able to say that it was upon your own motion, and nobody's else, that this addition was made before you were willing to sign it?—A. My recollection is I requested some corrections be made when the deposition was read over to me.

Q. Is it not your impression that you requested that addition to be made before you were willing to let it go?—A. Well, I can not distinctly recall what the corrections were; that might have been one of them; I do not think that I could state any further.

Q. Your recollection is more distinct of the occurrences of six years ago than of two, is it not?—A. Well, more distinct about the facts of this transaction, perhaps, than they are about the proceedings on taking the deposition.

Q. Of course two years and two months ago your recollection was still more exact than it is now, was it not?—A. I don't think it was, because my attention hadn't been called, I do not think, to the transaction until about that time; I don't know that my recollection about these occurrences is any better now than it was then; it had not been particularly called to them a short time before this deposition was taken; I was subpoenaed to attend this court at Buffalo; the main part of this interview was pretty strongly impressed upon me.

Q. But if it shall appear that you did make this addition to your deposition before signing, you are then satisfied that it was a true correction of the events of the narrative as it stood before that, are you not?—A. I think so; yes, sir.

The prosecution here offered in evidence a contract dated July 25, 1879, as follows: "This agreement, made this 25th day of July, A. D. 1879, by and between the Acme Oil Company, a New York corporation, of the first part, and Hiram B. Everest and Charles M. Everest, of Rochester, in the State of New York, of the second part.

"Whereas the parties of the second part have this day, at the special instance and request of the party of the first part, sole assignee, to set over unto John D. Archbold, Henry H. Rogers, and Ambrose McGregor three-fourths of the capital stock of the Vacuum Oil Company, a New York corporation, and have entered into an agreement in writing with their said vendees and the said Vacuum Oil Company, of even date herewith, as by reference to said agreement will more fully appear.

"Now, therefore, this agreement witnesseth, that in consideration of the premises, and of \$1 by the parties of the second part to the party of the first part in hand paid, the receipt whereof is hereby acknowledged, the party of the first part covenants, guarantees, and agrees to and with the party of the second part that the said Vacuum Oil Company shall pay to the said parties of the second part, for and during the term of five years, commencing this day, as salary for the services of the parties or the second part, hereinafter set forth, the sum of \$10,000 per year, in equal quarter-

yearly installments; the said salary to be paid to and divided between the parties of the second part in such proportion to each of them as shall hereafter be agreed upon between the parties of the second part; that the said Vacuum Oil Company shall employ the parties of the second part to render for it the said services for and during the said term; and in consideration of the premises the parties of the second part covenant and agree with the party of first part, that they, the parties of the second part, shall and will, for and during the said term of five years, give to the said Vacuum Oil Company, in the diligent and faithful superintendence and management of the business, all their skill, knowledge, experience, and services. The said Charles M. Everest to fully devote his time and services to the superintendence and management of the said business exclusively, and the said Hiram B. Everest to employ so much of his time and personal services in said superintendence and management as the necessities of the said business shall require.

"It is further agreed by and between the parties hereto that, in case of the death of either of the parties of the second part during the said term, the survivor of them shall thereafter receive for his said services during the remainder of the said term, such portion of the said yearly salary of \$10,000 as shall belong to him as his share thereof, not exceeding two-thirds thereof, in pursuance of the agreement between the parties of the second part existing at the time of such decease; that the parties of the second part shall and will, neither of them, during their term or terms of service, in pursuance of this agreement, refine, manufacture, or deal in petroleum or any of its products except and on account of the said Vacuum Oil Company.

"That all improvements, machinery, methods, appliances, and products invented or discovered by the parties of the second part, or either of them, in connection with the oil business heretofore or hereafter during such term of service, shall belong and be conveyed to the said Vacuum Oil Company; that at the close of the said term of five years all the provisions of this agreement and the term thereof shall, if so required by the said Vacuum Oil Company, be continued and extended for the further term of five years by the said parties of the second part or the survivor of them; but in the event that at the end of said first term of five years the said Hiram B. Everest desires to and shall withdraw himself for and during the said further term entirely from the oil business, he shall not be required to continue his said service, and the said Charles M. Everest shall, in that case, if so required by the said Vacuum Oil Company, continue in the said superintendence and management of its business for the said further term of five years, at a salary to be reasonably agreed upon by and between him and the said Vacuum Oil Company.

"It is hereby fully understood and agreed by and between the parties hereto that neither of the parties of the second part shall or will for or during the ten years from this date, refine or manufacture petroleum, or deal in any of the products of petroleum except for and on account of the said Vacuum Oil Company, at Rochester aforesaid, or at any point where he or his goods shall, in such business, come in competition with the said Vacuum Oil Company, or the party of the first part, or the manufactures of either of the said oil companies.

"In witness whereof the said party of the first part, by its president, has executed these presents and affixed its corporate seal, and the said parties of the second part have set their hands and seals hereto the day and year aforesaid.

"ACME OIL COMPANY, [L. S.]

"By JOHN D. ARCHBOLD,

"President.

"HIRAM B. EVEREST, [L. S.]

"By CHARLES M. EVEREST,

"Attorney in fact.

"CHARLES M. EVEREST. [L. S.]"

(To this the defendants objected as incompetent and immaterial. The objection was overruled, the paper was received in evidence, and the defendants excepted.)

The prosecution here offered in evidence another agreement bearing the same date, as follows:

"This agreement, made this 25th day of July, A. D. 1879, by and between Hiram B. Everest and Charles M. Everest, of Rochester, N. Y., of the first part; John D. Archbold, of Titusville, Pa.; Ambrose M. McGregor, of Cleveland, Ohio, and Henry H. Rogers, of New York City, of the second part, and the Vacuum Oil Company, a New York corporation, of the third part, witnesseth:

"That the parties of the first part, in consideration of \$200,000, to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, have bargained, sold, assigned, transferred, and set over unto the said parties of the second part and their assigns, seventy-five shares, being three-fourths of the capital stock of the Vacuum Oil Company, the party of the third part. That the said Charles M. Everest of the first part has also, in consideration of the further sum of \$18,750, to him in hand paid by the parties of the second part, and the further sum of money to

him in hand paid by the holders of the remaining one-fourth of the capital stock of the party of the third part, granted, bargained, sold, assigned, and conveyed to the party of the third part, its successors and assigns, his, the said Charles M. Everest's oil warehouse at Rochester aforesaid, with the land upon which the same is situated, and the oil business of the said Charles M. Everest, and all the appurtenances to his property and business belonging or appertaining that each of the parties of the first part have, for the consideration aforesaid further bargained, sold, assigned, transferred, and set over unto the party of the third part, its successors and assigns, all the good will and successorship of his trade or business of refining and manufacturing petroleum and its products, and of dealing in the products of petroleum. That further, in consideration of the premises, the parties of the first part do, each for himself, covenant, grant, and agree to and with the parties of the second part and their legal representatives, and also with the party of the third part, its successors and assigns, that except for and on account of the party of the third part and its successors, neither of the parties of the first part shall or will, at any time within ten years from the date of this agreement, engage or concern himself in the trade or business of refining or manufacturing petroleum or dealing in any of the products of petroleum, at Rochester aforesaid, or at any place within 100 miles thereof. It being considered and agreed by and between the parties hereto that this covenant and the faithful fulfillment thereof by the parties of the second part, respectively, is necessary to the full possession and enjoyment by the vendees aforesaid, respectively, of the business and good will, successorship and property conveyed as aforesaid.

"In witness whereof the parties of the first part have hereunto set their hands and seals the day and year first above written.

"HIRAM B. EVEREST,
"By CHARLES M. EVEREST,
"Attorney in fact.
"CHARLES M. EVEREST."

(To this the defendants objected as incompetent and immaterial. The objection was overruled, the paper was received in evidence, and the defendants excepted.)

WILLIAM H. PITT, a witness for the prosecution, testified as follows:

I reside at Buffalo, and am a teacher in the high school; I have charge there of the department of physics and chemistry, and have had for fifteen years; I graduated at Union College and have been engaged in the study of chemistry for a number of years past; I am familiar in a general sense with the process of the distillation of petroleum; I have made some study of it.

Q. If heat is applied to a mass of crude petroleum, what gas will be thrown off from the petroleum by the application of heat?—A. It depends on the temperature; the amount of heat applied to petroleum changes the nature of the gases that are thrown off.

Q. If a quantity of crude petroleum, say about 175 barrels, were placed in an iron still, which is closed, the still being about 10 feet in diameter and about 15 feet in length, placed horizontally, and under this still the fire is kindled, the fire becomes so hot that the fire-box becomes red, what gases, if any, would be created or arise from the application of such a fire as that, to such a body of petroleum, in such a tank or still?—A. Well, a good many series of gases. Petroleum is a mixture of hydrocarbon, and different varieties would be set free at different temperatures; this temperature, I would say, would set free a good many of them; the gases would be created or thrown off from the lower series, clear up, depending upon the heat; I don't know as I can remember all the gases, beginning from the lower degrees of heat, running upward toward the highest; the first series, about 100° temperature, would be, I think, what they call rigoline, and then benzine, naphtha, gasoline—I think one called gasoline.

Q. These are thrown off at what temperature? Just give us the temperature, if you can, of each of the gases that are thrown off in their order.—A. I should say about 100° Fahrenheit; I should say the first 37 centigrades, perhaps 38; the first would be at about 100° Fahrenheit; I am not positive about the degrees, but in that neighborhood; 100, 130 Fahrenheit, 200, 230, 240, 250, 360, 400, and so on; I have not referred to them in a good while, but those are about the degrees; different gases are thrown off at those different degrees; the first is what is generally known as rigoline; that is about 100 Fahrenheit; gasoline, I think, about 130, in that neighborhood; benzine is near 200; naphtha would be over 200—200 to 230, I should say; then comes the common kerosene, from 130—to common kerosene about 330 or 340, to 450 or 460, as near as I can recollect; that is the best of my recollection; this is Fahrenheit.

Q. These vapors that are thrown off, beginning at the lowest degree, what is their nature as to whether they are flammable or inflammable, or otherwise?—A. Well, it is generally concluded that the vapors, all the vapors—

By DEFENDANTS' COUNSEL. I suggest that you ask him, first, if he knows.

A. I do somewhat know the nature of these vapors that are thrown off; I have tested them to see whether they are flammable or inflammable; all the vapors of petroleum, under favorable circumstances and conditions are considered inflammable—that is, they are combustible; the first distillates—that is, those first arising from the crude oil, mixed with air, are considered the most explosive under ordinary conditions; those vapors, to be inflammable have to mix with air; it is when they are thrown in contact with the air that they then possess that quality of inflammability; the mere mixing of the vapor with the air will not in itself render them inflammable or combustible.

Q. What else is required to render them inflammable or combustible besides mixing them with air?—A. It must be raised to a proper temperature—flame heat; flame will ignite them; it requires the application of fire to them to render them combustible.

Q. Does the inflammability of vapors so produced vary, or would the quantity or bulk of the vapors have any tendency to increase or diminish the inflammability; that is, whether a large body of vapors of that kind would be more inflammable or combustible than a smaller body?—A. All that is necessary, the proper proportion of vapor with a certain quantity of air, whether large or small.

Q. If heat were applied to a still, such as I have described, for a period of about two hours, and the vapors were to accumulate and pass through tubes until such time as a quantity or bulk of them could be thrown into the air at once, what would you say as to whether the discharge of such a quantity of vapor into the air, so accumulated, would be inflammable or not?—A. If the density of the vapor was sufficient, mingled with the air, it would be; they would be inflammable; they would burn if a proper quantity were mixed; I mean by that, if there was only a small quantity in the air, that combustion could not take place; there would be too far a space between the particles of the oxygen and the particles of this hydro-carbon; they must be near enough together to burn.

Q. See if I can understand it in simpler language, Professor; that is, if a small amount of vapor was thrown into the air it would not be inflammable; it would dissipate into the air?—A. It would dissipate; it would not be inflammable.

Q. If large quantities of such vapors were thrown into the air it would be inflammable?

(To this the defendants objected as so indefinite as not to present any fact that is in evidence in the case. The objection was overruled and the defendants excepted.)

A. That is so; precisely analogous to the escape of common illuminating gas into the air; a very little of it would not be dangerous; it would burn; but if there was a sufficient amount combustion would take place.

Q. Can you illustrate it so that we can understand as to about the quantity of such gases that would have to be discharged into the air so that they would become inflammable?—A. It would depend so much on the conditions that I could not answer that definitely. A small quantity of ordinary illuminating gas discharged in the air is not in itself dangerous. If the gas is allowed to escape for a considerable time, until sufficient volume accumulates, it does become dangerous. When the vapors arising from crude petroleum accumulate and are discharged in the air, they are then considered inflammable.

Upon cross-examination the witness said: I have had my attention especially called to the processes of distillation of petroleum. Last summer I was in Olean, and there examined processes somewhat particularly for the purpose of making chemical observations and tests, and since then I have had my attention particularly called to the same subject, but not in connection with this inquiry which is going on here; it was in connection with my studies and instruction at the high school. The gases that are thrown off in succession by the raising of the temperature of the petroleum begin to be set free, I should say, at an application of the ordinary temperature.

Q. That is, in a cold day, if crude petroleum is exposed to the air some gases will begin to escape?—A. If it is first drawn, yes; at sixty-five or seventy degrees, at the ordinary temperature, vapors rise from petroleum.

Q. But there are so many ordinary temperatures the expression hardly seems to carry scientific exactness with it; now we have it at sixty-five to seventy?—A. Common, living temperature, ordinary. Gases would continue to be evolved up to near a red heat.

Q. What is red heat?—A. Red color.

Q. That is perhaps as near as you are able to define the phrase?—A. They will be evolved at all temperature—white heat.

Q. At white heat?—A. Yes, sir, if you put crude petroleum on it.

Q. Can you define white heat?—A. The highest heat we can get; it is the heat of the sun.

Q. That is at what point?—A. I should say five or six thousand degrees.

Q. In the sun itself do you mean?—A. Probably estimated white heat.

Q. In the sun itself do you estimate to be five or six thousand degrees?—A. Yes, sir; well, white heat is considered to be about five thousand degrees, but you can not get a white heat, I should say, five or six thousand degrees.

Q. Fahrenheit?—A. Fahrenheit; I mean if petroleum when thrown on white hot substance it would be decomposed and evolve gases; that is all.

Q. All the measures of heat that you may make use of are by the Fahrenheit thermometer, I suppose?—A. I use centigrade sometimes; when I am speaking here I refer to the Fahrenheit standard only; I think I spoke of centigrade once.

Q. You say that they continue to be given off, and would continue, if the heat, beginning at sixty-five degrees, were suddenly increased up to five thousand degrees?—A. I do not say so, sir.

Q. Suppose the heat to be gradually increased from sixty-five upward, at what period would gases cease to be thrown off from the body of crude petroleum?—A. It would depend upon the petroleum.

Q. Take, if you please, the same petroleum which the district attorney spoke of, and upon which your answers to him are predicated; apply the question, if you please, to the same petroleum?—A. In the mass the bottom of the retort might be heated, possibly, to a red heat before pure carbonization took place, before all the hydrocarbons were expelled, principally pure carbon would be left.

Q. The phrase "red heat" I suppose is an exact scientific phrase, is it? I observe that you use the phrase "red heat," and that conveys an exact scientific idea, does it?—A. And white heat; I use them both, red and white.

Q. Now I am asking you only about the phrase, "red heat"?—A. Well, it is a term we use, yes.

Q. Has it any other scientific equivalent?—A. I suppose so; yes. It is very difficult to measure the higher degrees of heat, as we have—

Q. So that it has, you suppose, some other exact, scientific equivalent, but at the moment are you able to state that equivalent?—A. I can not; I do not recollect. With the application of heat in the still, I suppose the flames of fire come in contact with the still itself; that however is merely my supposition.

Q. You are not actually informed as to whether the flames of fire come in actual contact with the still itself or not?—A. The heat I suppose will; you mean flames?

Q. Well, excuse me, Professor, inasmuch as I said flames, I mean it?—A. Well, I suppose they do; I never examined, that the flames of heat come in contact with the still; I think in the practical successful manufacture of the distillates from crude petroleum, it is proper to apply from about a hundred up to three or four hundred degrees of heat, to the still, up to kerosene.

Q. So, then, Professor, your judgment as a scientific man, would be that a practical and economical way of making some of the products of petroleum would be to set the still in the shade in a very hot, midsummer day, and keep the fire away from it, would it?—A. I never knew a day of four hundred degrees.

Q. You have known 100 degrees?—A. Yes, sir; the first distillates from petroleum I should say were the most explosive. By distillates I mean the gases or vapors generated by heat; we sometimes apply the same name to gases and vapors; there is a scientific difference between them; gas is generally understood to be a state of matter that is not so easily condensed as vapors by cold or pressure; it is permanent at common temperatures. I should say vapor is easily condensed by cold or pressure, so that really vapor and gases are the same thing, only vapors are more easily condensed than gases. We call steam at common temperature, boiling temperature, a vapor; as it rises from water through evaporation we call it a vapor.

Q. Steam, then, is a vapor and not a gas?—A. No, I don't say so.

Q. Steam is then a vapor and a gas also?—A. The vapor of water, the vapor which arises from water, we call a vapor at common temperatures, or warm; but when it boils, at 212 Fahrenheit, we generally apply the term steam to it.

Q. You hardly have reached an answer to the question; the question was, whether steam, that is, that which we call steam in order to be accurate, whether that is a gas or a vapor?—A. At what temperature, sir?

Q. Well, we will be liberal about that; take any temperature you like.—A. It obeys the laws of pure gas at high temperature; kept at that temperature, it is a gas following the same laws as incondensable gases—as the air. Steam is an incondensable gas if it is kept hot enough; it acts like the air; the same laws govern it as would the common atmosphere provided it is properly heated—kept heated.

Q. You are not prepared yet, then, to say whether steam is a vapor or gas?—A. You may consider it either.

Q. But, after all, I would like to know what you consider it, Professor?—A. I consider steam, highly heated, a pure gas.

Q. Now, steam not quite so highly heated, is that a pure gas?—A. It does not follow the laws of pure gases at a low temperature.

Q. Then, I suppose, by that you mean it is not a pure gas?—A. It does not follow those laws.

Q. I do not want to be captious, but I should like to know whether you mean by that that it is not pure gas at a lower temperature?—A. I consider gaseous bodies mere solids, not fluids; under this definition vapors and gases are included; steam at a lower temperature does not follow the same laws that pure gases follow when we apply heat to it. I consider pure gas a gas that obeys what we call Mariotte's law.

Q. Who is he, if you please?—A. Well, it is a law about gases; he discovered it; if you heat them one degree they expand a certain amount, and vapor or water won't do that, does not follow those laws.

Q. Then you are, or are you not, able to say whether steam at a lower temperature is not a pure gas?—A. I consider vapor and gas the same condition of matter with different degrees of heat in them; they are neither fluid nor solid, but they are a gaseous state of matter; but steam at a low temperature does not follow the same laws that the common air will, or any fixed gas; that is not easily condensed. I consider vapor a gas, both of them a gaseous state of matter, but that the vapor does not follow the same laws as pure, as a fixed gas; that vapor does not follow the same laws as a fixed gas. I call the air a permanent gas; when permanent gases are heated they expand a certain amount for every degree of temperature, and these vapors which will readily condense are not fixed gases, do not expand so.

Q. These things that are given off from petroleum upon application of heat, are they vapors or gases?—A. I consider all matter that is neither fluid nor solid a gaseous state, they are in a gaseous state; the first that arises from petroleum is a fixed gas; marsh gas first arises from petroleum; the next, I think, is called rigoline.

Q. And that is a gas?—A. That will condense to a liquid.

Q. And that is a gas?—A. It is a gaseous state of matter when it is driven off; yes, sir.

Q. It is a gas, then?—A. A gaseous state of matter.

Q. It is a gas?—A. And a vapor, both. The next one, I think, is gasoline, and that is both a gas and a vapor; I think the next is a chemical called benzine; that is both a gas and a vapor; and so all the way up. They are all both vapors and gases.

Q. What do these several vapors or gases look like? Can you see them?—A. You may see them if they are condensed.

Q. When they are condensed they are no longer vapors, I suppose, or gases?—A. Why, we apply the term to steam; we say we see steam, but it is not steam in the air; it is condensed.

Q. It is a vapor, then, that you see, is it not?—A. Called a vapor, of course.

Q. Is it not scientifically a vapor?—A. Oh, yes; called so.

Q. And it is not scientifically a vapor?—A. Why, certainly, yes; we call it a vapor; I call it a vapor; scientifically and practically a vapor that arises in the air; pure steam is invisible; what we see and call steam is generally simply what was steam, and has become condensed by contact with the cooler air.

Q. Well, is it not always?—A. It does not always come in contact with the air.

Q. Of course not, and when it does not you do not see it, do you?—A. You may; I have seen it when it did not come in contact with air, in a retort; it looked the same as it does now in the air, the same color it appears in the air; I mean that if steam should escape into pure nitrogen gas, cold, it would be condensed and become visible, same as if it were to escape into the common air; if the air were excluded from the retort, the steam would then, upon condensing, be perfectly colorless, I presume.

Q. Do you know anything that is not combustible?—A. I don't think gold is; I don't know that it is not; I only know what they tell me; there is one thing that nobody has ever seen, they say is not combustible; they call it fluorine; nobody ever saw it.

Q. Therefore nobody is able to say whether it is combustible or not?—A. I have always thought it was, if you could get it.

Q. Did you ever make what is called fractional distillation of petroleum, to determine the vapors, or not, of this series of gases that you have spoken of?—A. I have up to the kerosene series; I am not able to give the result of that fractional distillation more exactly, that I know of, than I have upon my direct examination; I made some experiments last fall here in my laboratory at Buffalo, after my visit to Olean; at Olean I did not determine the temperatures of the various grades of oil, as distilled; I did that here; I simply used a glass retort, a condenser; a common glass tubulated retort would hold about a quart, or near that; the beak of it was put in a glass condenser globe; I kept it cold by running water; condensed the vapors; I had a thermometer to take the temperature, and kept it at several different temperatures, and examined the products distilled. I never have been to the Buffalo Lubricating Works to examine their process there; I do not know anything about how nearly my experiments were identical with the process there employed; I never thought of that; I have no practical acquaintance whatever with the practical operations of the manufacture of petroleum products; I have not by observation at the place where they were practically in operation, only from what I could learn from the officers and common inspection; I never worked in a works nor had any practice whatever; I am not

prepared now to give the degrees of density of these various gases or vapors of petroleum, so long since I examined them; I think the common kerosene vapor is about forty Beaumé; I am speaking now of the oil; the vapor density I could not tell you; the phrase "specific gravity" is used in regard to vapors or gases; that is the same thing as density; these gases or vapors are so various, so many, that I would not like to give the figures on their specific gravity; I would prefer not to on any of them.

Q. You would rather not, I suppose, because you can not at present?—A. I can not recall the vapors, so long since I have read them; I prefer not to recall approximately the figures; some are lighter than air, some are heavier; I think the first would be lighter than air, those that are evolved at the lower temperature; those at the higher temperatures, I should say, would be heavier, some of them—paraffine series.

Q. You are quite sure that some of them are lighter than air, are you?—A. In a fluid state, do you mean?

Q. Is one of these things, when it comes into the fluid state, is it a vapor or gas?—A. I mean liquid state we call all vapors or gases fluids; after it becomes in a liquid state, I should say it is not then a vapor or a gas.

Q. May I ask, then, what, exactly, you meant by asking whether I meant the vapors or gases in a liquid state?—A. These distilled from petroleum, or gases and vapors, when they are condensed we call them liquids. I did not know which you referred to.

Q. I was particularly saying vapors or gases; just answer the question; you are quite sure that some of them are lighter than air?—A. I am. I know that by experiment; I did not test the specific gravity; the way I ascertained the comparative gravity, so far as to be able to say that, is that they rise in the air, escape; not all of them do; the heavier hydro-carbons fall.

Q. Which are they by name; one would naturally suppose it would be the heavy ones that would fall, but perhaps that would be a bold deduction. Could you say which are the heavier ones that fall?—A. I look upon marsh gas and the first as the lighter gases; and the heavier hydro-carbons, condensed, I should say, are the heavier; this marsh gas is identical with natural marsh gas, which is the result of decomposing organic matter upon low ground.

Q. Could you collect the natural marsh gas, which you say is lighter than air, in a balloon?—A. Yes; I am quite sure of that.

Q. It is suggested that I misapprehend you; probably what you intend to say is that you could collect the marsh gas and put it into a balloon; that was your idea, was it not, in answering the question, or did you mean that by navigating the air at a considerable distance above the earth, in a balloon, over a marsh, you could collect the marsh gas; is that what you meant?—A. I did not. What I meant was that I could collect it in a balloon from the marsh; I meant if the balloon was near enough to the ground.

Q. You could not get it up in the air, this gas which is lighter than air; you can collect it close to the surface of the marsh, could you not, and not elsewhere; is not that a fact?—A. You can get it off petroleum; it occurs in petroleum; you can get the natural marsh gas off from petroleum; the natural marsh gas that is evolved by what we call the decomposition of organic matter; it is the same.

Q. The process of distillation is simply the same process which goes on in the natural decomposition of organic matter, is it?—A. In destructive distillation, similar.

Q. What is the effect of the introduction into a still such as has been described to you, containing 175 barrels of crude petroleum, of a body of live steam? You will bear in mind that the scientific statement was made to you that there was under it somewhere a fire, pretty hot; now having those exact scientific conditions, will you tell what would be the effect of introducing into the still a body of live steam?—A. I prefer not to answer that, because it would depend so much on the temperature, I suppose.

Q. But after all, you have the temperature quite as exactly given as it was given before, and you did not decline to answer then.—A. That was in reference to vapors that escape.

Q. Now, I am asking in reference to something else. You were content then with the statement that the fire was a pretty hot fire, very hot fire, I believe, which is perhaps still more scientifically exact, but the want of that condition being stated with something like exactness invalidates, does it not, practically the opinion that you have already expressed as to the operation in the still without the steam?—A. It would make a difference with the steam; yes.

Q. And it makes a vast difference how hot that fire was, does it not?—A. Yes, sir.

Q. And the expression "a very hot fire" does not convey any kind of scientific foundation for an opinion, does it?—A. Only comparatively.

Q. It does not furnish the basis for anything better than a mere guess, does it?—A. We have a commonly accepted idea what a very hot fire is.

Q. Will you give me the scientific definition of a very hot fire?—A. I say there is nothing exact about it; it is only comparative.

Q. You have not any kind of scientific conception of what is meant by that phrase, have you?—A. Not precise.

Q. No, not at all?—A. Not precise.

CHARLES B. MATTHEWS, a witness on behalf of the prosecution, testified as follows:

I live at 270 Niagara street, Buffalo; I have lived in Buffalo since the spring of 1881; my business is manufacturing petroleum oils; I know the defendant, McGregor, by sight, and know all the other four defendants.

I have been in the business of manufacturing oil since the summer of 1881; prior to that I was principally farming near Wyoming, N. Y.; I there made the acquaintance of Hiram B. Everest in the winter of 1878; he came there to lease lands for the purpose of drilling a test-well for oil; I think I made the acquaintance of Charles M. Everest in the spring of 1878, at Rochester; I think I first saw John D. Archbold in the Vacuum Oil office in Rochester, in the summer of 1879; I saw him several times during 1879 and 1880 in New York, and I think twice in Rochester; I first met Mr. Rogers in 1879; I am not sure whether it was at the Vacuum office in Rochester or in his own office, or the Standard office in New York; I saw Mr. McGregor at Rochester in the fall of 1879; I do not recollect any other time; and was introduced to him by C. M. Everest; I began doing a little work for the Vacuum Oil Company at Wyoming. Hiram Everest came up there to lease lands to build a test-well for oil, and he asked me to assist him in purchasing lands from the neighbors, the farmers in that locality, and I went with him for several days; then he pretty much ceased coming there and I went on under his direction and leased about 15,000 acres of land for that company; they afterwards decided to put down a test-well for oil on my farm, and Mr. Everest asked me to look after it somewhat, and I went with him to Bradford and engaged a man to drill the well; afterwards bought the supplies and kept a record of the rocks through which the drill passed in drilling this well; after we got through with the well I was employed visiting points regarding the manufacture of salt; that lasted several weeks; next I was asked to go with Mr. Everest to Pittsburgh in regard to the patent which the Vacuum Oil Company held, a patent taken out by N. P. Ewing, and claimed as a patent on burned residual petroleum oil; I was with H. B. Everest, and had a talk with Mr. Cotter, who was a manufacturer of oil at Freedom, near Pittsburgh, and saw a man at Pittsburgh by the name of Payne, and another man by the name of Abbott, who were oil manufacturers or dealers, and I saw several other parties whose names I can not recall; H. B. Everest told me it was in reference to this patent suit which he expected to bring that he wanted me to go to Pittsburgh, and he wanted I should look after the matter somewhat, in his interest.

Q. State what was done there in Everest's presence; what he said.

(To this the defendants objected as immaterial. The objection was overruled, and the defendants excepted.)

A. He told Mr. Cotter he was going to bring an action against him for making oil claimed by this Ewing patent; Mr. Cotter told him that he had a right to make the oil; that is about all that was said that I recollect of; I was in Pittsburgh a day or two with H. B. Everest, and then returned to Wyoming, where I lived; after that I removed to Rochester to assist the Vacuum Oil Company on the paper they were publishing, or about to publish; the name of it was The People's Journal; it started, ran a few months, and was suspended by the publishers; during this time that I was engaged on the paper, and prior to that, I was also looking after this batch of litigations, and had frequent talks with the Everests and Henry Rogers, and some with Mr. Archbold, relating to the litigation.

I also sold some leases for the Vacuum Oil Company that they had of some oil lands at Wellsville, or near there, in Allegany County, N. Y. I had no written contract of employment, nor any verbal contract, as to any particular time; up to the time I left Wyoming, I think I got \$50 a month; attended to my own affairs and looked after theirs somewhat; after I went to Rochester I received what amounted to \$100 a month and still looked after my farming matters and other business of my own.

About the middle of March, 1881, I had a conversation with C. M. Everest in the private office of the Vacuum Oil Company, Savings Bank Building, Rochester, in regard to going to Buffalo; Miller had been there a few minutes when I came and found him there; I said, "I suppose Mr. Miller has told you that we are going into the oil business in Buffalo." He said that he had; that he had something of a headache. He asked me, "What are you going to call the company?" I told him the "Buffalo Lubricating Oil Company we expected would be the name." "Well," he says, "as men I respect you, but as to the Buffalo Oil Company, I shall do what I can to injure or destroy it." I can not tell which word he used; as I recollect, I said we did not expect any favors from them. He asked me, "How are you going to get your crude?"

I said that we would get it from the Atlas pipe-line, or oil company, I don't remember which term I used; and he says, "You will wake up some day and find that"—well, I don't remember, sure, whether he said it would be in the Standard, or there would be no Atlas Oil Company; I can't say which it was. "You will wake up some day and find it is in the Standard," I think that was the way he expressed it; my recollection is I said to that I thought they would stick to their business; he further said that they had methods of making money I didn't know anything about; I can not recall any further conversation; my recollection of it is that when I came in Miller was there and when I went out he was there.

Prior to this I had made a move in regard to establishing our works here in Buffalo; we had made an agreement; this agreement (Exhibit F) had been made at that time; Miller's and Wilson's signatures were in the places cut out.

I don't remember any further conversation with C. M. Everest at any time subsequent to the one I have spoken of; I don't remember any with H. B. Everest after his return from Denver.

We came here to Buffalo and made purchase of lands upon which these works now stand; we first bought two acres and a half; subsequently two and a half acres more, by contract; the first purchase I think was an option; I gave so much money for the privilege to buy for a few months; I had no practical knowledge of the construction of a refinery of this kind; I could not make the oils myself, or run the stills; there was no person that went with us in our employ who could do that successfully except Miller; there was no other went with us who knew how to direct the works and manufacture the oil.

Prior to the conversation with C. M. Everest of which I have spoken I had a conversation with him in the oil company's office, or a room across the hall which they used for other purposes; I told him that my salary was not satisfactory to me, and that I wanted more pay; subsequently we spoke about it and he said, "If you want more pay you can go; I am satisfied; you can go or remain, just as you like, but you can not have any increase of salary."

It was about the middle of March that Miller commenced to take charge of these works; he began doing something in regard to getting materials; he superintended the erection of the works; I assisted him in purchasing material and getting machinery and other things needed for the work; we had occasion to borrow money; I borrowed \$5,000 at Warsaw.

Q. Where is that note?

(The defendants objected to this as immaterial. The objection was overruled, and the defendants excepted.)

A. I suppose in the papers of this case; I don't know; there was a note upon which Miller was maker or indorser; the amount is \$5,000.

There was a written contract with Miller previous to the incorporation of the Buffalo Lubricating Oil Company; I suppose it is the one I just handed you (the district attorney) but I may have made a mistake; if that is not it I will bring it hereafter.

There was a time when Miller commenced to absent himself from the construction of the works. This was before the sills were set; I mean before they were placed and bricked up. During the month of May he was gone a quarter or a sixth of the time; sometimes I knew where he was and sometimes I did not, generally did not; I did not know what he was doing; I made inquiry of the men at the works and of others that he should inform me of his absence. In the month of June I went to the depots and watched his arrival on the trains; made inquiry also; I went with Frank Beardsley, and went alone. His absence greatly retarded the construction of the works. It was about the last of March that Mrs. Miller moved to Buffalo; they occupied a house on Elk street; our works are on the corner of Elk and Babcock, 2 miles from the corner of Main and Seneca; the works were half a mile from where the Millers lived. We had not established any office in Buffalo at that time; Frank and Charles Beardsley were at the time in our employ; Frank was connected with the works at the time of Miller's being here; Charles C. came in June. I was not at the works upon the day of the first running of the first batch of oil; I can not tell where I was upon that day, only that I was not there; I was there subsequently; the subject of the first running was a matter of discussion there at the works; I was there the next day; since that time I have become acquainted somewhat with the method of running these works; I have seen, from time to time, the residuum that is left in the still which is used in the manufacture of lubricating oil, and have become acquainted with its appearance; I saw the residuum that was left from the first running; it was very black, parts of it, and part liquid; this residuum could not be used for the manufacture of lubricating oil. At the time Miller disappeared I was president of the company and Miller was vice-president; all the stockholders were the board of directors; they were Hiram Benedict, the two Beardsleys, Mrs. Wilson, J. Scott Wilson, and myself. I had no notice from Miller or any other person that he was going to leave at the time he did for good; his going was unknown to me,

Q. State fully from the time Mr. Miller left what was done at the works, what exertions you used to procure any person to run them, and the conduct of the works.

(The defendants objected to this as incompetent and immaterial. The objection was overruled, and the defendants excepted.)

A. There was one still in a condition to run; there was no person left at our works who was capable of running the stills and making oil successfully, or who had a practical knowledge of running the still.

Q. State what occurred in the conduct of your works?

(To this the same objection, ruling, and exception were had.)

A. We had some oil manufactured of an inferior quality. Some oil was run under the direction of Mr. Wilson with very poor results; I made inquiry as to securing some one else to take Miller's place; I talked with men at the works and anybody that I thought would be likely to be able to tell me; I did not go out of Buffalo for the purpose of inquiry; I only inquired of men that I thought would be likely to know; I can not give their names. These inquiries ran along for perhaps a year; we finally got somebody to come there and try to run our works, a man by the name of Martin C. Kiley; he was not satisfactory; no one else came during the first year, that I remember of, that claimed to have practical knowledge on the subject. Frank Beardsley principally did the experimenting down there trying to make oil. The quality of the oil during these experiments was generally inferior; we had contracts to supply oils during this time; I think we had existing contracts at the time Miller left; we were not able to fulfill our contracts from the oil manufactured from our works. We continued our works a year or more before we were able to make successfully good oil; good, merchantable oil. The capacity of our works, if properly conducted for the period of the first six months, if they could have been run by a competent person, was 300 or 400 barrels a day of crude oil; in fact we run in the first six months 15,000 or 16,000 barrels of crude oil; we got our oils from the Atlas Oil Company principally; we ceased getting oil from those parties about the 1st of January, 1882. The next time I saw Miller after he left was in Buffalo, some time in August, I think, with a man I never saw before or since; I did not see Mr. Outerbridge upon that occasion; Miller came again to see me; I saw him in Buffalo about the middle of September; Mr. Outerbridge, the attorney here, was with him; he came to the Buffalo Lubricating Oil Company's office on Seneca street; Miller said he came up to look at the books; Outerbridge was present; I had conversation with Outerbridge.

Q. What was it?

(To this the defendants objected as immaterial and incompetent. The objection was overruled, and the defendants excepted.)

A. Miller asked to look at the books; I asked him what he wanted to see the books for; he said he had a right to look at the company's books: Mr. Outerbridge said that they came up there to look at the books; I said I did not think they needed to look at them; I think, however, before that Miller said that he had come back to offer himself, "Do you want me to go to work for the company?" I told him no, that we had other arrangements; I think I asked him where he had been, and he said he had been sick; then they proceeded to question further about the books, Miller did; and I said that if he wanted to know anything specially about the books to ask what he wanted, and Outerbridge said he wanted to know how Miller stood with the company; I told him that I would have a statement made out and sent to him, if that would answer; I think Mr. Outerbridge called for the company stock-book, and it was given him by Mr. Daniel Benedict, who was there; I think he gave him the stock-book, and he and Miller looked at it a little while and gave it back and went away by our agreeing to send a statement to Rochester, which we did do; we did not settle up with Miller on that occasion; that is substantially what occurred there as I recollect it. They came up again, both of them, in a few days; I saw them at the company's office; I asked Miller what he would take for his stock in the company, and he told me; Outerbridge said that they wanted some receipt in regard to the liability of the stockholders, if the arrangement was made, and I told him that we would give it; the price was agreed upon, and I gave him a check for the amount, gave him a statement; that is the substance of the conversation, if I recollect it. I have acquired knowledge by experience in regard to the manufacture of oil from petroleum by the process that was in use at the time that Miller was with us; as to whether the gases thrown off from the petroleum by heating the stills were inflammable or not, I have seen oil heated and a light applied to the vapors eliminated from hot oil in testing the same; when fire was applied I have seen explosions of the vapor or gas, and fire ensued; I have had experience in regard to the inflammability of crude petroleum; at the time of this first running, our crude oil was in a tank quite a number of rods from the stills; there is difficulty in extinguishing petroleum stored in quantities when it takes fire; I have seen a tank of crude oil in flames in Buffalo, in Pennsylvania, and elsewhere; generally the fire can not be extinguished; the oil can be pumped away; if it is in a tank the fire becomes extinguished when the oil is

removed; the oil burned from the top; crude petroleum is highly explosive after it becomes heated to a certain degree; I could not say definitely about how much crude petroleum we had stored there at the time of this first run; the tail-house at this time was right at the end of the condenser, or water-box [witness indicates upon the map]; it has been removed to this point I show you; the tail-house is where the light oils are run through after they are condensed; the point at which they are discharged.

Q. State whether or not, at the time, you had difficulty in procuring crude petroleum to be used in your manufactory.

(To this the defendants objected as immaterial. The objection was overruled, and the defendants excepted.)

A. Yes, sir. I had two or three conversations with Charles M. Everest about the raise of my salary. My duties in the office of the Buffalo Lubricating Company were quite general. I was manager of the office and sales of the oil; purchased supplies and oils, machinery, and tanks.

Upon cross-examination the witness said: I am forty-two years old, and was born in Covington, Wyoming County; I lived in that county until 1870, and went then to Kansas, Marshall County; I lived there until 1873; I do not recollect being engaged in any occupation aside from farming before leaving Wyoming County for Kansas; I was on my mother's farm, and had been so engaged all my life; in Marshall County, Kansas, my occupation was principally farming and dealing in real estate; in 1873 I returned to the town of Wyoming; in that summer I was producing oil in Butler County, Pennsylvania; I considered my home still in Kansas; my family was at Wyoming, but I expected to return to Kansas; I gave up the purpose of returning to Kansas when I bought some land at Wyoming; I rather think it was in 1873, the same year that I returned from Kansas; I first went, I think, in February, to Pennsylvania and I sold my fixtures there in July; I arranged for my interests in Pennsylvania immediately upon going there, and sold out in July; what I was doing in Pennsylvania was watching the progress of a drill in a well in which three of us were interested, Hiram Benedict, now in the Buffalo Company, and a man by the name of Stall; I did something more than watching; I did some little errands about, but it was business that I was familiar with, and I was not there a great while all told, probably not three weeks of solid time. The rest of the time from February to July I was principally in Wyoming, mostly living with my father-in-law; that is all that I now recall that I was doing there; I bought a farm in Wyoming subsequently, I think in the same year; I bought two farms; in the spring of 1874 I went onto one of them and rented the other, I think; the farm that I went upon I began to work myself, and continued to work it until the present time; I have been working it myself for the last six years; men have been working it under my direction; I have spent very little of my time during the last six years working that farm.

It was in 1878 that I first took up another occupation in addition to operating that farm; that was the employment by the Vacuum Oil Company in regard to the salt well, in February, 1878; from that time to the 1st of March, 1881, I was continuously in the employment of the Vacuum Oil Company; I still had charge of my business at Wyoming; it was understood and arranged that I should look after the farm there; I did some work after that, in March, but I did not charge for it; I was working for them somewhat down to the middle of March; I was under their orders to that time, but not under their pay after the 1st of March; what terminated my employment on the 1st of March was the question whether I should leave them or not, in my own mind; I told them I should not charge anything for my services after March 1; I can not tell just the time I told them that; it was not before the interview when Miller and I saw Charles Everest.

Q. How long after that interview was it?—A. I don't know whether I told them, or whether I stated it in a bill, or just how it was, but that was the way the matter was arranged; I can not tell just how long it was after that interview in the middle of March that I first stated I would make no charge for my services rendered after March 1; I think the services which I did render during the first half of March were of use to the company; they were rendered in my general employment, which did not appear at that time to have been terminated; my not receiving pay for my services after March 1 was, I think, simply out of consideration of delicacy on my part; I had rented a house for a year, in February; I had not determined whether I should remain with them at this salary, and I finally concluded to leave them; I wanted to finish up what business I had in my hands, that I could do perhaps better under their influence than some new man could.

Q. When did the conception first enter your mind of establishing a business in competition with the business of your employer, using the processes which he used, keeping the apparatus which it used and owned, and employing the employes whom it employed, including yourself?—A. I don't know; I don't know whether it was in the month of December, 1880; the idea of going into business was suggested by others, by J. Scott Wilson; I don't know that it was as early as December, 1880; I

don't know that it was as early as January, 1881; I think it was as early as February, 1881; I can not say whether as early as the beginning of February; it was probably as early as the middle of February; that is as near as I am able to fix the time when the first suggestion was made to me by J. Scott Wilson upon that subject; I remember that a suggestion of that kind was made earlier; it was in the fall of 1880, before the interview with C. M. Everest and Miller about the middle of March; I don't recollect that anything further had been done at Buffalo towards the establishment of these works than an agreement for land; I don't know exactly how long before the middle of March that was; we had examined land before that; my recollection is that Wilson and I came up here and looked at the land, and that Miller came up, and I think he looked at it, and I think that that was the time or the point in the matter that Miller decided to go with us; I should say that it was perhaps a week before the middle of March when we saw C. M. Everest; I don't remember definitely; I think it was not two or three weeks before; I think we saw no other land before we negotiated for this; this was all the land I recollect of that we examined for the purpose of buying; immediately after we first examined it we got an option that we might buy it, and gave him \$50; I am not sure whether it was the first time I saw it or whether it was after Miller had seen it; I am not positive about that. Kiley staid with us several months after he came; I think he came the latter part of July; I think he was here until perhaps into the edge of winter; I should say five or six months; I think a man that we had by the name of Porter was the next man; he had been working with us from nearly the commencement; he had lived in Canada; he was a man we found in Buffalo when we began to build, and he came there as a pump repairer or machinist, or something of the kind; he staid with us in Kiley's place until the present time. The oil that we made during the first six months, we sold what we could; it was not altogether unmerchantable oil.

Q. Then why did you say upon your direct examination that it was a year or more before you made merchantable oil?—A. I said so because there is a degree of value in the oil; it might do for one purpose at a higher price, and another purpose at a lower price; it is a matter of degree; I did not have an opportunity to give that qualification before.

Q. You were asked how long it was before you could make merchantable oil, and you answered promptly that it was a year or more, did you not?—A. Yes, sir.

Q. Now you say it was not a year or more, but that all the oil you made was merchantable?—A. I should answer just as I did; yes, sir.

Q. Then for the purpose of one question it was, for the purpose of the cross-examining question it was not; is that so?—A. It is a matter of degree; it is not a matter of argument—a degree of value; I do not remember whether I stated a degree of value in my answer to the district attorney's question; I guess I said it was a year before we could make merchantable oil; it was a year or more before we made merchantable oil.

Q. Then during the first year you were selling unmerchantable oil, were you?—A. I think so; yes, sir.

Q. Did you represent it as merchantable oil when you sold it?—A. Some of it was merchantable oil.

Q. Then you were not, during the first year, selling simply unmerchantable oil; is that so?—A. I guess that is so.

Q. Then it was not a year before you made merchantable oil, was it?—A. We sold the oil that we made, and it was merchantable for some purposes.

Q. It was merchantable oil, was it not?—A. For some purposes; yes, sir.

Q. Now, let me have this question in the way in which you wish your answer to it to stand finally. Did you during the first year of your operations make merchantable oil or not?—A. We made some.

Q. Then when you said that it was a year before you made merchantable oil, you said that which was not true, did you not?—A. No, sir; I did not. I think it was about the 1st of July that we had our second still in operation.

Q. Was it in satisfactory operation from that time, or did it require adjustment and modification before you got it into running order?—A. The still was all right; it required a man to operate it; from the 1st of July onward it was all right so far as I know; we got a third still in operation somewhere in August; these three constituted our entire force.

During all the existence of this company I have been acquainted in a general way with the amounts of crude manufactured by it; I purchased it; I knew what I purchased, substantially; I guess nobody knew better than I what I purchased; we did not purchase any that was not paid for, and none was paid for that was not purchased, so far as I remember; I continued to make the purchases from that time on, when I was here, and I was here most of the time; if they wanted oil, and I was not here, they bought it; we got the crude from the Atlas Refining Company; it was delivered to our works in pipe, a little pipe that they laid over from their own works, having no connection with any general line of pipe, as I understand it; at the begin-

ning of 1882 we ceased to buy from the Atlas, and then bought in the open market as we best could; from that on the deliveries were made to us in tank cars, uniformly, I think; I think we received no deliveries by pipe lines; I know we did not get any of any account; I don't think we got any; the deliveries were made from the green line of tank cars—a Pennsylvania company; I think that is the name upon the receipts we gave; it might have been Empire Line; as I recollect it, it was by that line exclusively that we received it then and continued to down to this last winter.

I don't know how much oil we ran in the years 1882 to 1886, inclusive; I know something about it, but I don't know how much; I think we ran more in 1883 than we did in 1882; I can't say how much we ran in either year; we ran more in 1882 than we did in 1881, as I now recollect it; I don't know how much more we ran; I can tell nothing more about it than we ran more than we had before; that is just about as near as I can give it; I think we did not run two hundred thousand barrels in 1882; I think not one hundred and fifty thousand; I should think somewhere in the neighborhood of one hundred twenty-five thousand; that is as near as I think now that I am able to give it; in 1883, I think, we ran less of crude; I don't know how much less; I do not think we ran one hundred thousand barrels in 1883; we were changing our works and preparing, and did manufacture kerosene and barreled it, and that took our operations when we completed the oil and turned it out in the market; I know we did not turn out as much, because we turned out the finished product of all the light oils; I should guess we ran less than one hundred thousand in 1883; I guess we ran as little as seventy-five thousand; it is my best judgment that it was as little as that; my best recollection is, I should think it might be as little as fifty thousand barrels, in 1883; in 1884, I should think about the same as 1883, substantially; in 1885 not very different from 1884; I should think in the neighborhood of fifty thousand barrels of crude; I do not recollect any special difference in 1886; it just depended on the way you made it up, and how much we filtered, and how fine we made it, and a great many other circumstances; I do not think we made as much in 1885 as we had in 1884; I should judge ten or fifteen thousand barrels less in 1885 than 1884; it is about my recollection that in 1885 our total consumption of crude came down to from thirty to forty thousand barrels; I can not say it did not fall below thirty thousand; I do not think it fell below twenty-five thousand; I will not say positively about it; I do not like to say positively that it did not fall below twenty thousand barrels in 1885; I do not think it fell in 1885 below fifteen thousand barrels; I do not think it did; I am not certain; I am pretty sure that our total consumption of crude in 1885 did not fall below twelve thousand barrels; I am pretty certain that it did not; that is right.

My duty in looking after the patent litigation of the Vacuum Oil Company continued through some part of 1879 and the whole of 1880, and down to the time that I heard that it was abandoned, which was about the last of 1880. My duty in looking after that litigation called me into consultation from time to time with the various counsel of the company.

The action of the Buffalo company against the Everests was begun in the spring of 1883; I suppose I verified the complaint in that action; there was another action begun by that company against the Everests and others, I think in the spring of 1885; I suppose I verified the complaint in that action; it was after I met Miller, after his return from California, that the first action was begun; I think in the neighborhood of a month after; I think it was in the winter of 1882 and 1883, or the spring of 1883, that I had that meeting with Miller in Buffalo.

The capacity of the first still that we got into operating order was 180 barrels; that would require 160 or 170 barrels for a charge; within 10 or 20 barrels of the entire capacity of the still, as I understand, would be a proper charge; the capacity of the next still was the same; neither of these were vacuum stills; the capacity of the third and last still was 40 barrels; that was a vacuum still.

It was in September that Miller came back to me and offered to go back to work with the company; about the middle of the month, 1881; that was on the first of the two visits that he made to me with Mr. Outerbridge; the second visit, upon which we settled up with him, was a few days after, a week or perhaps ten days; that was, I should think, about the third week of September, 1881; when he offered to return I told him we did not want him; that we had made other arrangements; the other arrangements we had made, we got the works to running after a fashion, and I did not think we could trust him; that is the reason I told him.

Q. You said in answer to the district attorney's question that you know that the gas passing off from the safety-valve, upon the heating of the still to a point which lifts the valve, is identical with the gas which you have seen following experiments from crude petroleum; do you know that to be so?—A. I think that is so; I would not say as to the minuteness of the identity, but it is of the same character; the gas which passes off is petroleum vapor; some of it is gas and some vapor; it is gas mixed with vapor; I know that that gas mixed with vapor is explosive; I have seen it explode in testing oils a good many times; you can only eliminate a small amount of

it, but it will go with a puff when you put a paper to it, or a match; you can not get up a large amount but it goes with a puff, which shows it is explosive matter.

Q. What more do you know about it?—A. I have seen it coming from a well, and burned several men and derricks and property; it exploded; the gases crept quietly to the boiler unobserved and all at once the whole atmosphere was ablaze; I call that an explosion; I have seen oil burning and attempts made to put it out; all these gases are highly inflammable and the extent of the flame from the crude oil or gas would determine in my mind considerably as to the explosive character of the particular gas that was being burned; my opinion is that the greater extent of flame in the combustion of any given substance the more explosive that substance or the gases evolved from it are.

Q. Then you are satisfied that the gases evolved by applying heat to pitch pine are explosive, and that to a higher degree than the gases evolved by heat from white pine?—A. I did not say so; I do not desire to draw the distinction between white pine and pitch pine; I do not know that there is any distinction.

Q. Take pine then; you are of the opinion that the gases evolved by the burning of pine are explosive, and that to a greater degree than the gases evolved by the burning of hickory, are you?—A. There is more resinous, combustible matter in pine than hickory, some kinds of pine; I don't know that the gases evolved are explosive to a higher degree than those evolved by hickory.

I say that petroleum itself is explosive, crude petroleum highly explosive; the various gases and vapors evolved from it are all very highly combustible or explosive, or both; I know they are all explosive; I know it, because when they are confined and hot, the still or retort, or whatever it is, will explode; I know that the vessel containing these things explodes; steam is not explosive exactly in the sense that oil is; I call anything explosive that by heat explodes, creating a noise and breaking the substance in which it is confined; the noise is not necessarily essential to it; the noise depends upon the confinement; water is explosive; not explosive in the sense that some other things are; I should say it is not explosive; I think steam is explosive.

Q. Now, if you confine water as you have suggested in regard to petroleum, in a tank closely sealed, and apply fire to the outside of it in a sufficient degree to raise a body of water above the temperature of 212 (at this elevation above the sea I will add), what, in your judgment, would be the result?—A. If the tank was full of water it would burst the tank.

Q. It would explode the tank, would it?—A. It would burst the tank; I would hardly think it a proper expression in regard to water to say that it would explode the tank.

Q. You would not because water is water I suppose; is that it?—A. Well, the weight of the water might burst the vessel that it was contained in.

Q. Very well; I see you require scientific exactness; in a tank strong enough not to be broken by the weight of the water?—A. Of course, I desire simply to express the difference in a simple way, between hot oil, even, hot, heavy oil, and water under a heavy heat.

A. Do, if you please.—A. In the heaviest petroleum that I know of, if heated hot and suddenly ejected into the air, it would take fire and burn vigorously, and there is no degree to which water can be heated and then ejected into the air, that by simply coming into contact with the air, it will create a conflagration.

Q. Then you use the phrases explosive and combustible and inflammable as scientific equivalents, do you?—A. I would not draw it that fine.

Q. When you say all this time that these fluids and gases and vapors are explosive, you mean that they are inflammable, do you not?—A. No, sir; I do not mean that; I mean that some of the gases evolved from petroleum are explosive, and they are all inflammable; those are explosive that are lightest in point of gravity, like gas itself, that is invisible, passes off in the air; those I call explosives; those are the lighter of the gases evolved. I had occasion to go to the works of the Vacuum Company I should think twenty times during the year and a half or two years that I was engaged with the company; it was pretty near the end of 1880 that I ascertained that the prosecution of the Cotter suit was abandoned; I should think within a month before the end. The action brought by our company against the Everetts was brought in March or April, 1883; it was one for the recovery of damages against the Everetts for their dealings with our company, which we complained of.

The capital stock of the Buffalo Lubricating Oil Company, Limited, was \$40,000; that company is now doing business by itself; I do not know exactly how much of that capital was paid up in June, 1881; its capital stock is now \$100,000; that has not all been paid up; about \$40,000 has; I think it was enlarged from \$40,000 to \$100,000 a year and a half or two years ago; I guess not all even of the last \$40,000 is quite paid in now; the last increase of our works was made a month ago; the last prior to that, in 1883; at the time that increase was completed, I think, they stood substantially as represented by the map, Exhibit A.

I can not tell definitely when our concern first began to advertise itself as manu-

facturer and vendor of all kinds of fine lubricating oils; we had some advertising out in 1881; I do not know to what extent; I can not tell whether it was as early as the 3d of August, 1881, that our concern was advertising itself; I gave an order on solicitation to have an advertisement put in; I think it came out earlier than I expected; I was crowded by one of the solicitors; it was not anything that I sought at all; I did give the advertisement to put in; I do not remember that it was as early as that date; I was examined as a witness upon the trial of our first action against the Everests, in March, 1885; upon that examination, being shown The Oil, Paint, and Drug Reporter, dated August 3, 1881, I think I said, in regard to the advertisement shown me, that I recognized it as an advertisement of our company.

Q. I show you an advertisement and ask you if that is the one that you so identified?—A. This is an October advertisement. I would not swear that this is the same advertisement which was in the paper of August 3, 1881, to which I testified on my former examination, and to which I have testified now. I can not say whether I made any change in the advertisement between August and October.

Q. Now I show you the same paper under date October 19, 1881, and call your attention to the advertisement and ask if you recognize that as an advertisement of your company?—A. I do.

Advertisement was offered and received in evidence as Exhibit No. 2.

EXHIBIT No. 2.

C. B. Matthews, president. Hiram Benedict, treasurer. Buffalo Lubricating Oil Company (limited). Manufacturers of fine lubricating oils for all purposes; winter and summer car-oil and leather and harness oils. Office, 14 and 15 Hayden block, corner Main and Seneca streets. Works, corner Elk and Babcock streets, Buffalo, N. Y.

I think that advertisement was true in the sense that we put it in.

Q. Did you not on the trial of that case, in March, 1885, testify in regard to this advertisement in the same terms, in the same paper, for August, 1881, in answer to the question, "Was that advertisement true or false?" answer, "I think it was true at the time it was inserted?"—A. I do not know whether this is the advertisement shown me then or not.

Q. I am not asking you whether you now know how you testified then. I am asking you whether you said that; just that and nothing more?—A. I can not tell; I do not know whether I did or not.

Q. Was this advertisement, which has been shown you, true at the time of the publication of the paper that you have just seen?—A. Well, true as any advertisement, about.

Q. That is your opinion of advertisements, then, is it?—A. Pretty nearly my opinion of them. Miller and Wilson and I had four or five or half a dozen consultations in Rochester, from the time this scheme was first suggested of going to Buffalo to set up a rival concern, up to the time we finally left the Vacuum company. In the course of some of these interviews the whole subject of the plan set on foot was discussed in detail.

Q. Did you not in the course of those interviews, shortly before the time of your leaving the employ of the Vacuum company, at the house of Mr. Wilson in Rochester, while talking with him and Mr. Miller about coming to Buffalo for that purpose, say to them this, or this in substance, that if you started this concern the Standard Oil Company would have to buy it out?—A. No, sir.

Q. Did you not in the course of those interviews, at about that time and place, say to them this, or this in substance: "We must make a good showing, and then the Standard will buy us out?"—A. No, sir.

Q. Did you not at Wilson's house, at about the same time, say to him and Miller, or either of them, that if you could duplicate the products and apparatus of the Vacuum Oil Company, that company or the Standard would buy you out; that they could not afford to let you run?—A. No, sir.

Q. Did you not at or about that time, and at that place, say this in substance: "We can go to the customers of the Vacuum Oil Company and say to them, 'We have the same processes and the same apparatus and the same oils as the Vacuum Oil Company, and we have still their old superintendent, Mr. Miller, to manufacture the oils'"?—A. I might have said something like that in substance; I do not recollect it, though.

Q. Did you not, at the same place, during those conversations, say to them, or to one of them, this in substance, that you expected to get from \$100,000 to \$150,000 by being bought out by the Vacuum and Standard people?—A. I did not.

Q. Did you not, at about the time Miller left the employ of the Buffalo company, say to J. Scott Wilson, at the works or the office of that company in Buffalo, this in substance: "I am glad he has gone?"—A. I think not; I would not say positively.

Q. Did you not, at your office in Buffalo, about the 15th of July, 1881, say to C. M. Everest this in substance, that Miller was a pimp and a drunken loafer, and you were glad to get rid of him?—A. I think not; I would not say positively about that; I had a talk with him afterwards; I had some such conversation, but I am of the opinion that it was some time later than that that I said something of that character. That was my opinion at the time I said it, whenever that was, if I did say it. I know Joseph F. Stearns, who has testified as a witness here; he was in the employ of the Vacuum Oil Company before he came into that of the Buffalo company; it was not upon my invitation that he left the employ of the Vacuum company to enter that of our company; I made the arrangement with him; I do not know whether it was in 1884 or 1885; I could not say whether it was in the latter part of 1884. It was in Boston that Stearns was employed, and I made the arrangement with him there; I had a conversation with him at my office, the Lubricating company's office; I did not talk much with him; he came in there and was introduced by Mr. Reynolds, and was anxious to do business with us; I have no recollection of any other place than that where I had talked with him about being employed by our company. I can not say positively now that I had more than one talk with him at that place about it; my talks with Stearns in Boston might cover three months, and it might be six months or a year; I was there occasionally; did not spend very much time there; I can not tell you how many times during 1884 I was there; I do not recollect any other place than our company's office in Boston that I had talks with Stearns; I do not remember talking over with Stearns the litigation between our company and the Vacuum company about the latter part of 1884; I might have told him, in the course of such a conversation, that we had a suit for \$100,000 pending against the Vacuum company or against the Everests; I do not remember; I never told him this, or this in substance, that if we could get judgment in that suit, we could put the Everests behind the bars, and that was the only way we could get the Standard company to give the price asked by the Buffalo company.

Q. Did you not at that time and place say to Stearns this in substance, that the Everests would pay anything in the world before they would allow themselves to be locked up?—A. I do not recollect it; I might have said it, but I do not think I did. I will say I did not say it.

Q. Did not Stearns, in answer to that, ask you how you could lock him up in a civil suit?—A. No, nor that in substance.

Q. And did you not answer him in substance, that a man by the name of Miller had given his deposition to the effect that he was hired by the Everests to injure the Buffalo works, and that you had got Miller in black and white?—A. I do not recollect it; I might have said it; I do not recollect it.

Q. Did not Stearns then say to you, in substance, that he believed Miller was not reliable?—A. I do not think he did.

Q. Did you not thereupon say, in substance, that you did not think Miller was reliable; that as a matter of fact he had lied to you?—A. I have no recollection of this alleged talk; I have no recollection of saying that.

Q. Did you not further say to him this, in substance or in terms: "We do not care as long as we have got it in black and white where he can not back out of it; we can use it any way?"—A. No, sir.

Q. Nor in substance?—A. I think not. I think I met Stearns in Albany once. It was in the winter. I guess it was about the time the United States court was sitting in Albany. I do not remember where I met him there. I remember meeting him in Albany; I can not say as it was this particular time or not; during a talk with him there about some railroad trade there, of the canal company. I can not say sure whether I had more than one talk with him in Albany. I think that he and I went to the office of the Delaware and Hudson Canal Company.

Q. At that time and place did you talk again with Stearns about your litigation with the Vacuum people?—A. I have no recollection of it.

Q. Did you say to him, in substance, "I must get the Standard people where I can pinch them before they will come to my terms?"—A. No, sir; nor that in substance.

Q. Did you say this, in substance or in terms: "We have not yet set a price, but we will see what we want, and I think we can get it, if we can get our judgment against them, because that will give us a hold for criminal suit against them?"—A. I never said any such thing to him.

Q. Did you say this, in substance: "We ought to have brought our suit for \$250,000, and we are sorry we did not?"—A. I might have said it; I do not recollect it. I have no recollection at all, not the slightest, on the subject of any conversation with Stearns, at that time, except about selling oil to the Delaware and Hudson Company. Mr. Stearns came on to testify in the trial of our civil action for \$100,000, in March, 1885.

Q. Do you mean to say that when you met him in January, 1885, you did not talk with him about the approaching trial of that case?—A. I was talking to him prob-

bly about a patent suit that we were at Albany to try; one of these patent suits, and I might have mentioned it; I do not recollect that, even. The United States Court was then in session at Albany; I remember that now.

Q. And you are of the opinion that in the latter half of January you did not talk with Stearns about the approaching trial of your great case, in which he was to testify for you in March?—A. I have no recollection of it. He came on then at my request from Massachusetts to testify on that trial, and did testify. It was upon my request that he came on to testify upon this trial.

Q. Did you not, in Buffalo, just before the trial of that civil action, say to him this, in substance: "We must win this suit at all hazards, so we can get the criminal suit started; then they will be in our power and we can make them come to our terms?"—A. No, sir.

Q. Did not Mr. Stearns tell you in Buffalo, some time in September or October, 1885, in reference to the Young's Hotel register, that he had learned from the chief clerk of that hotel that the words "A friend," after the name of H. B. Everest, were added by the clerk himself?—A. I do not recollect his having told me any such thing. I can not swear positively he did not.

Q. Did he not, shortly after that, tell you that again?—A. I do not recollect it. I did not say to him, on one or both of these occasions, that he must say nothing about it; that I wanted it understood that Mr. Everest wrote it all, nor that in substance.

I do not remember of offering any special inducement to any witness to be present or to testify upon this trial. I say I have not. In two cases I have offered more than mere expenses for coming. Mr. Miller said that they could not leave their daughter, and I said that I would see that if their daughter had to come that her expenses were paid. In reference to Mr. Stearns, he wrote that he could not come without his wife, and I said that the district attorney would make it right or that I would make it right. That is all the special inducement that I am aware of in regard to this whole proceeding. Mrs. Stearns was not expected to be a witness. I think I wrote to Mr. Stearns as late as the 28th of April last, and addressed the letter to him marking it "personal," I think, and I said in it to him, "the district attorney will pay your expenses and I will see that you are fully satisfied for coming when you are here."

Q. And you said further, did you not, "There are reasons why I prefer not to send you any money from here, but if you find it necessary before coming you can make sight draft on me for what you need before starting;" did you not?—A. I think that is about as I recollect it. I was out of money, and he wrote that he was. I know Arthur A. Illsley; he lives somewhere about Boston; I have seen him at Boston at different times; he was not present at any of the conversations with Stearns at Boston about which I have been asked, that I recollect of.

Q. Did you not, on the 27th of December, 1880, write a letter to Mr. H. B. Everest in regard to the suit against Cotter?—A. I do not remember.

[A letter produced by defendants' counsel.]

WITNESS. This is my handwriting.

Q. Did you not, on the 27th of December, 1880, write these words to Mr. Everest: "Last week I saw Mr. Rogers and C. Brown, and the next move decided upon in the Cotter case is to have Cotter examined under oath by the attorneys on both sides, and should he testify that the S. O. Company have not in any manner agreed to protect him against a loss or damage in consequence of past infringement of your patent, then the attorneys are to take the testimony to the court and explain the relation of the parties to each other, and then, if the court is willing that the case should proceed, the case will be tried on its merits?"—A. I did. That is all my letter contains upon the subject. I think I was writing this from the city of Rochester, from the letter being dated from there.

I do not remember whether it was in 1885 or 1886 that I first made his acquaintance. When I first knew him he was at work for the Buffalo Lubricating Oil Company. I knew him recently, while he was at work for the Vacuum Oil Company. I did not hire him.

I never made a special study of the different kinds of crude oil until I began the manufacture of petroleum oils, in 1881. The first civil action against the Everests was begun in the spring of 1883. The next proceeding that we instituted against them was my company-brought an action against them and others in the spring of 1885. That was to recover \$250,000 damages. The next proceeding I instituted that I recollect of was coming before the grand jury of this county in October, 1885, and procuring an indictment of these same five defendants by the grand jury. The next was coming before the grand jury in 1886 and obtaining the present indictment.

I know William O. Allison, and have for five or six years. He lives in New Jersey. His occupation is selling cotton oil, trust stock, and publishing paper, The Oil, Paint and Drug Reporter, the same paper which has been exhibited to me, containing the advertisement of our company. In the summer of 1885 I think I saw Mr. Allison here in Buffalo, and also in the fall of 1885, in my office, 55 Main street, and at my house

the same day. I do not recollect that I saw him at the Mansion House; perhaps I did. On those occasions I think these suits were referred to. I think they were fully talked about between him and me.

Q. All the litigations pending, the actions that your company has brought, and these indictments or the prior one, or the one that was to be brought, were discussed, were they not?—A. I think something was said about the indictment; I think it had actually been brought.

Q. At that time there was conversation between you and Mr. Allison as to the terms upon which all this litigation could be settled, was there not?—A. I think not.

Q. There was nothing said on that subject?—A. No, sir; I do not remember that there was any talk about the settlement of any litigation.

Q. Did you not then say this, in substance, to Mr. Allison, then and there, that all the difficulties with the Buffalo company could be settled for the sum of \$300,000?—A. No, sir; nor that in substance. A short time after that I saw Mr. Allison in Syracuse; I think I saw Mr. Allison in Syracuse at the Globe Hotel; I think I had telegraphed him to meet me there; I do not know that I had; I think my conversation with him then continued half an hour or an hour; during that time the subject of conversation was in part the differences between the Buffalo Company and these other parties, and the possibility of settling them.

Q. Was it not then suggested by Mr. Allison, in substance, that the sum of \$300,000 was excessive as a consideration of settlement?—A. No, sir.

Q. Did you not then say to him, in substance, that \$250,000 would be, or might be, accepted?—A. We were not talking about that.

Q. You did not, then, say that?—A. He was talking about buying our property, and we talked about it in that regard, not of settling the litigation. I think there was something said about buying the stock of our company.

Q. And you proposed that it should be bought for \$300,000, did you?—A. Well, that price was mentioned in connection with that subject; I am not sure whether it was mentioned by me or by him.

Q. And then, when it was mentioned by him, was it not mentioned with the remark that it was rather a high price for the property?—A. Perhaps so; I do not recollect.

Q. And in answer to that, did you not remark, in substance, that the property could be bought perhaps for \$250,000?—A. It is possible; I think there was something of the sort said; yes, sir. I do not know that that was said to me.

Q. This made no special impression upon your mind at the time?—A. Nothing extraordinary; no, sir. I was not daily having transactions of \$300,000, or of \$250,000.

Q. Then, at that conference with Mr. Allison, did you say to him, in substance, that he might communicate to the New York parties the proposition for \$250,000 in settlement or purchase?—A. No, sir, not that I recollect of; I do not recollect no such thing.

I saw Mr. Allison some time after that; I think I saw him at his house at Englewood, N. J. I do not remember seeing him in New York about that time; I have seen him at the Astor House, in New York, but I do not know whether it was along at this period or not. Within a month after the meeting at the Globe Hotel I was one day, or a part of a day, at Mr. Allison's house at Englewood; I do not know but what I staid there over night; I guess I did; I am sure I did; I can not now fix the date of it.

Q. Did you not, at that time and place, say to Mr. Allison this, in substance or in words, that if the \$250,000 was paid the criminal case would be nolprossed?—A. No, sir; nothing of the kind.

Q. Was not the question then discussed between you and him of how the criminal action could be nolprossed?—A. He said that he could settle it; I told him I thought it could not be settled.

Q. You did not then suggest to Mr. Allison that if that money was paid the criminal prosecution would be nolprossed or discontinued?—A. No, sir.

Q. Did you not speak to him, at that time and place, about getting Miller out of the way?—A. No, sir.

Q. You did not say that he could be got out of the way?—A. I do not recollect of any talk with him about Miller at any time.

Q. Do you say that you did not say that to him?—A. I think I did not.

Q. Will you say that you did not?—A. Well, I will make it as positive as I have, that I think I had no talk with him about it in any of those interviews.

Q. Did you not, at any of those interviews, suggest to Allison, in connection with the talk about settling, that if the money were paid the matter should be kept a secret?—A. No, sir; nor that in substance.

Q. Did you say this in substance, to Allison at any of these interviews, that you in that event should secretly be taken into the employment of the Standard Oil Company?—A. No, sir.

Q. Or that in substance?—A. No, sir.

Q. Did you say this, in substance, that if you were so taken into its employ you would thus be able to control all the outside trade in Buffalo in favor of the Standard?—A. No, sir.

...to this transaction, was
...to look after Miller?—A.

...at the Globe Hotel in Syra-
...the matter should be kept
...employment of the Standard Oil
...the outside trade in Buffalo

...this in substance, that if the
...of which one of \$100,000
...yourself?—A. No, sir.
...you wanted so much for your-
...much to be paid to the law-
...tion, or otherwise, make that

...or November, 1885, I saw him
...s and Morse's office; that was

...conversation with Alfred P.
...pany and settle, and with-
...in substance?—A. I did not.
...not submit such a proposi-
...position; he did not say so;
...member whether I asked him

...do so, or that in substance?—

...and settle all suits, civil and
...ance, except so far as it refers
...over about the criminal pro-
...he and I figured up the value
...he works; I do not remember
...Dudley, of Buffalo; on or
...versation with him, in which
...I did not make a proposition

...proposition to him?—A. I did
...him, I did set a price on our
...I know Benjamin Brewster;
...can not say that I know J. A.
...of them, in March, 1882, at 140
...office with Mr. Rogers; I did
...Buffalo property for \$100,000, or
...have spoken is in a building;
...air, simply bricked in, except
...the fireman from the rain; in

...witness said: In 1881 the other
...marked "barreling house;"
...with the exception of the lean-
...now than there was at that time.
...tures came to be taken out of
...er urged to have me get this
...Wilson, and he kept inquir-
..., and I said there was partic-
...arrangement regarding the
...Wilson, and Miller wanted his
...had previously torn his out;
...that it might be handy to
...my pocket. In regard to the
...in the sense we intended when
...vertisement, and that we ex-
...we would buy. Those were
...all, and the advertisement was
...and I was urged to put it in
...versation with Mr. Stearns

about his coming to Buffalo as a witness; I received a letter from him, which is now in the possession of the company. I now recall some conversation with Mr. Stearns regarding that register and those names, but where it was I can not say; I know we talked about the names on the register, but I think he said that it was not all in the same handwriting; that is about all I recall; that is the only modification that I think of that I wish to make of my testimony. I have been to Young's Hotel in Boston; [being shown a book] I know the handwriting of H. B. Everest; I have seen him write; I have had correspondence with him; I have got a letter from him. (Witness's attention is directed to a page under date of Sunday, July 3, 1881, and the signature on the fourth line from the bottom of the left-hand page.)

I have seen that signature before; I never saw it in Boston; the writing is Hiram B. Everest's, and the word Rochester.

Being further cross-examined: I could not swear to the words "and friend" being in H. B. Everest's handwriting; I can not swear that they are not. Some years ago I was in correspondence with him; I am not positive whether these words are in his handwriting; the word friend is cramped there a little for room and I do not know, I think that it is in his handwriting.

The prosecution here put in evidence the entry referred to, and the further fact that Albert A. Miller's name does not appear in the register upon that page.

JOHN BYRNE, a witness called on behalf of the people, testified:

I reside in the city of Buffalo, and have for the last forty years. I was formerly superintendent of police, and have now a detective agency here.

Q. Were you employed by any of the defendants in this action in regard to the employment of one Lane Burrell?—A. I had a man by that name employed.

Q. Were you in the employ of any of the defendants in regard to this litigation?—A. Yes, sir. I employed Lane Burrell in 1885 or 1886, I think.

Q. At the time that he was in your employ he was also employed at the works of the Buffalo Lubricating Oil Company?—A. Yes, sir.

Q. And while in your employ, and in the employ of the Buffalo Lubricating Oil Company, did he make reports to you from day to day; did he make reports to you?—A. Yes, sir.

Q. What did you do with those reports?—A. I filed them in my office.

Q. What else did you do with those reports?—A. Forwarded copies, one to New York and one to Rochester. The one forwarded to New York was addressed to Mr. Dodd and the one forwarded to Rochester to Mr. Outerbridge. I met Mr. Dodd at New York City, at No. 44 Broadway, which is the office of the Standard Oil Company. I received my pay from Mr. Dodd.

Being cross-examined by counsel for Archbold, Rogers, and McGregor, the witness said:

My instructions from Mr. Dodd were in writing. I have these instructions here.

(Witness then produces paper, which he says are the original instructions from Mr. Dodd.)

Mr. Dodd gave me these instructions at his office in New York. I think when I was in Mr. Dodd's office in New York I was introduced by him to Mr. John D. Archbold. I think this was in the month of May, 1885. I knew at that time that Mr. Dodd was attorney for Mr. Archbold, Mr. Rogers, and Mr. McGregor in a suit brought in the supreme court in this county against those individuals, together with other parties and corporations.

The instructions are as follows:

During the year 1881 the Buffalo Lubricating Oil Company was organized. Two of its members, Albert A. Miller and J. Scott Wilson, were previously thereto employees of the Vacuum Oil Company, of Rochester. We have reason to believe that Miller and Wilson were taken into the Buffalo Lubricating Oil Company for the reason that they were acquainted with the patented and secret processes for the manufacture of oil by the Vacuum Oil Company, and that they were given an interest in the Buffalo Lubricating Oil Company in consideration of constructing the Buffalo works so that the Vacuum processes might be used. We want all the light we can get on that subject.

(2) We desire to know who are connected with Matthews in the present suit against us; who is assisting him with capital, and what the objects of the parties associated with him may be.

(3) We desire to know whether Albert A. Miller is at present connected with Matthews, and what his present connection with the case may be. He is now employed at the works of Clark & Warren, Corry, Pa. Much may be learned from him of the history of the whole matter embracing the original design of the framers of the Buffalo Company, in getting him and Wilson away from Rochester Company. If he is promised a part of the proceeds recovered in these suits, we are quite anxious to know it.

(4) We desire to know if the Buffalo Lubricating Oil Company is violating an injunction against the infringement of a patent of the Vacuum Oil Company.

In order that we may judge of this, discover whether the Buffalo Lubricating Oil Company, during the process of manufacture, draw samples of oil from their stills, and if so, what they do with those samples; in other words, do they obtain from them the gravity and fire test, or does Mr. Beardaley take the samples where no one can see what he does with them?

(5) We also desire to know whether Clark & Warren, of Corry, are infringing the Vacuum processes; learn whether Albert A. Miller is their stillman, for he is acquainted with the process and would likely use it; also learn, as asked above, in regard to the Buffalo Oil Company, as to the drawing of samples of oil from the stills during the process.

(6) We have reason to believe that the suit is brought for the purpose of forcing the Standard to purchase the works of the Buffalo Lubricating Oil Company, and Matthews has made certain statements to that effect; would like reports of any statements or admissions by him in relation to his objects in these suits.

The witness, being further examined by the district attorney, testified:

What I did was in reference to ascertaining what I could upon the subjects contained in these instructions, and that is all I did.

Q. You went into the Buffalo Lubricating Oil Works, and hired a man that was in the employ there?—A. I did not.

Q. Who was the man that you employed that you spoke about yesterday?—A. I employed Mr. Burrell, but he was not in the employ of the Buffalo Lubricating works when I hired him. He remained in my employ some months. While he was in my employ, he was also in the employ of the Buffalo Lubricating Oil Works. I did not get him that employment, but I told him to get it, and he made reports to me.

CHARLES B. MATTHEWS, being further called for cross-examination, testified:

I know William E. Cotter, of Philadelphia. I first saw him in 1879. It was in connection with the suit which the Everests afterwards brought against him upon the patent. I once called at his store in Philadelphia. I think I called at his house in Philadelphia; I think in 1881 or 1882. I am very confident that I did not in the spring of 1885. I have no recollection of calling there but once, and I should think it was about the year 1882.

Q. Did you, about the spring of 1885, at his house in Philadelphia, talk with him about your litigation which has been under consideration in this trial?—A. I don't think I did. I do not think I talked with him, about the spring of 1885, at his house in Philadelphia, about my litigation which has been under consideration in this trial.

Q. Did you in the course of that conversation say to him this, or this in substance, "This thing of building refineries, and expecting the Standard to buy them out, is a poor investment, at least it seems so to you and me"?—A. I did not say anything of the kind.

Q. Did he answer to that, in substance, "The Standard's day for buying out refineries is past"?—A. I do not recollect anything of the kind. I do not care to make it any more definite than that; I do not remember it.

Q. To that did you answer this, or this in substance, "I intend they shall buy me out, or I shall make it very warm for them"?—A. I said nothing of the kind.

Q. Were you at his house in Philadelphia in the fall of 1884 or 1885?—A. I never was at his house but once, and I do not think I ever saw him at his store. I do not remember of ever seeing him but once in Philadelphia, and that was at his house about the year 1882. I do not recollect seeing him in the fall of 1884 at his house or his store in Philadelphia.

Q. Did you then and there, in substance, ask him to aid you in your company's litigation against the Everests and the Standard, saying that if he would he could make a good thing out of it?—A. No, sir.

I have seen Mr. Allison here in Buffalo since this trial began. I met him in this room, I think. I had a slight conversation with him, meeting him here in the court-house one day last week.

Q. Did you ask him, in substance, why he came on here to testify, telling him they could not compel him to come?—A. No, sir; nothing to that effect.

Q. Did you say to him this, or this in substance, "I suppose you have come to prove that I tried to sell out to the Standard"?—A. I said something of the kind, not as you put it, though.

Q. You said that in substance then, did you?—A. Well, I guess so.

Q. Did you then say to him, "You can go home, I will admit it"?—A. I guess likely I did, something of the kind, in substance, something that might be construed into that, very like.

Q. You intended it to be construed into that, did you not?—A. No.

Q. But that might be construed into that, but that you did not intend so to be construed?—A. I admitted I tried to sell out; I do not think I said the word Standard; I asked Mr. Allison why he was here and he drew out a subpoena, and I read it; he said he thought he could not be forced to come as he lived in New Jersey, and he found that he could.

I should like to make a correction in my statement yesterday in regard to the quantity of crude oil that was used in our works in 1882; my correction is that there was fifty thousand or less used, instead of one hundred, as the report which I read seems to say.

Q. Does not the report that you have read make you say that you used 125,000 barrels of crude?—A. Well, I think it does.

Q. And is not that what you said?—A. That is what I said.

Q. And did you not say it after a great many questions were asked you about it?—A. Some questions were asked.

Q. And you did not say it after you had first said that it might have been as high as one hundred fifty thousand?—A. Very likely.

Q. And did you not settle down upon one hundred twenty-five thousand as a minimum amount that you were willing to put for the oil you used?—A. I think so; that is why I want to correct it.

Q. Now how have you got the basis of correction in the meantime?—A. Running estimates in my mind; I had not thought of this question.

Q. Now you are quite sure that you used about fifty thousand, are you?—A. Fifty or less; thereabouts.

Q. Well, now, whereabouts; was it above or below fifty, because it is for the benefit of accuracy that you have come back to make this statement, of course?—A. It is less than fifty, I think; I am sure that it was not more than 50,000 barrels.

Q. Are you sure that it was more than forty thousand?—A. I have not made any examinations of any books or any figures; I have been just simply running in my mind from years past; there are books that show it, I suppose.

Q. But you have preferred not to take the trouble to examine the books, have you not?—A. I did not know that that question was coming up here in any form; I knew it had come up yesterday, and I thought about it.

Q. And you had the means of obtaining the exact information, had you not?—A. If I had the time I had the means.

Q. And you have not done so?—A. No, sir.

Q. At the time you verified the complaint in the first action for damages against the Everests there was nothing in the complaint setting up the occurrences of the 15th of June as a cause for damages, was there?—A. I considered that there was; it mentioned conspiracy, and the damages followed, and that included the other.

Q. Was there one word in that complaint mentioning that occurrence of June 15?—A. Not this specifically as a crime, but it was a damage; it was only mentioned in connection with others.

By the COURT. Now, then, was there anything in the complaint in reference to the attempt, or the alleged attempt, to blow up the works?

The WITNESS. It is a very difficult question to answer; I think I heard a great deal of talk about it; the lawyers on one side said that it was, and on the other side they said that it was not. The general word "destroyed" comprised it, and I am not able to tell which lawyers were right, what "destruction" meant; there was, however, no specific mention in the complaint of the alleged injury to the works, or the attempted injury on the 15th of June.

Being further examined by the district attorney, the witness testified:

Q. You may state whether or not at the time of the preparation of the complaint in the first action of the Buffalo company against the Everests, you stated to the party who drew the pleadings the facts in regard to the blowing up, or attempted blowing up, of these works.

(To this the defendants objected to as incompetent. The objection was overruled.)

A. I did not.

Q. Did you know, at the time these pleadings were drawn, in regard to the fact of the attempted blowing up of the works?

(To this the defendants objected as incompetent and immaterial. The objection was overruled.)

A. I did not.

Q. From whom did you first get your information in regard to this subject?

(To this the same objection and ruling were had.)

A. I think it was in the month of February, 1885, at Rochester, from Mr. George Truesdale's sworn testimony; George Truesdale, a witness who was here.

Being further cross-examined, the witness said: I first learned anything in regard to that subject from Mr. Truesdale, in Rochester, in the month of February, 1885, from Truesdale's deposition; it was, I guess, perhaps six months before Truesdale was examined that I had a talk with him; the last talk I had with him before he was ex-

amined was, I guess, about fifteen or twenty minutes before; I had a talk with him, I think, a day or two before he was examined; the time he was examined was the first I had learned definitely of this transaction; I know that that is true; Miller was examined as a witness at one time; his examination preceded that of Truesdale by about six months; he testified on this subject, but not fully; that is my recollection of it; he testified as to conversations that he alleged he had with the Messrs. Everest on this subject; not fully; he did not, I think, testify upon that subject more fully than he has upon this occasion.

Q. Then you did not know about the subject, about this matter, more than six months before the action was brought to trial, did you not?—A. I knew something about it. There was never any application made to amend our complaint setting up what I now claim the fact to be, not that I know of; if there was, it was made at the opening of the court.

ELDON H. HAMILTON, a witness for the prosecution, testified that in 1881 he was working for the Vacuum Oil Company at the Boston office as shipping clerk and salesman; and that on the 3d or 4th morning of July of that year the defendant H. B. Everest arrived at the Boston store in company with Albert A. Miller; that he could not tell how long Miller staid in Boston, but that he went away once, and that he was there altogether perhaps two months or ten weeks, perhaps not so long; that Miller did nothing around the place, but went and came as he saw fit; that sometimes he would stay there pretty nearly all day, and other days would, perhaps, be there no more than an hour or so; that he did no work.

FRANK N. BEACH, a witness called on behalf of the people, testified as follows:

I reside in Rochester, N. Y., and am secretary of the Vacuum Oil Company; I was appointed and have been since 1880. At about that time I came to Rochester from Titusville, Pa., at the request of Mr. Hiram B. Everest. Before entering the employ of the Vacuum Oil Company I had been engaged as a broker at Titusville, Pa., and I had also been employed by the Enterprise Transit Pipe Line Company. As the secretary of the Vacuum Oil Company I kept the book of record, the secretary's record book of any meetings that were held; I also had charge of a portion of the books of the company; I also had a little to do with the correspondence of the company. I was subpoenaed here to produce the books of the company containing the account of Albert A. Miller with the Vacuum Oil Company. I have a statement of Albert A. Miller's account, but I have not brought the books.

(Witness produces statement, and the district attorney produces another account, and hands it to the witness.)

Q. I would like you to look over that account, Mr. Beach, and see if you ever swore that that was a correct statement of Miller's account as it appears upon your books.—A. I think it is.

Q. Does not your book contain a debit in Miller's account of \$1,000, made when Miller was in California, which does not appear upon this paper you produce?—A. No, sir; it did not go into Mr. Miller's account.

Q. Why did it not go upon the books?—A. Mr. H. B. Everest paid the money in California, and I think that was afterwards paid back to Mr. H. B. Everest by the Vacuum Oil Company, and I think it was credited to Mr. H. B. Everest's account upon the books of the Vacuum Oil Company.

(The district attorney thereupon offers in evidence the two accounts; the one produced by the witness and the other produced by himself.)

Received in evidence, and marked Exhibits O and P.)

EXHIBIT O.

State of Albert A. Miller, account.

1881.		
Apr.	4. Cash.....	\$8.65
July	16. Cash.....	50.00
Aug.	10. Cash.....	50.00
	17. Cash.....	75.00
	22. Cash.....	50.00
Sept.	1. Cash.....	119.20
	19. Cash.....	50.00
	30. Cash.....	75.00
Oct.	13. Cash.....	35.00
	20. Cash.....	20.00
	31. Cash.....	105.18
Nov.	4. Cash.....	100.00

1881.		
Nov.	4. Cash.....	\$75.00
	11. Cash.....	175.00
	16. Cash.....	30.00
	28. Cash.....	20.00
	30.	9.92
Dec.	1.	40.00
	27. Cash.....	10.00
	30. Cash.....	15.00
	31. Cash.....	76.75
1882.		
Jan.	5. Cash.....	25.00
	19. Cash.....	10.00
	28. Cash.....	50.00
	31. Cash.....	90.44
Feb.	1. Cash.....	30.00
	6. Cash.....	20.00
	16. Cash.....	10.00
	21. Cash.....	10.00
	28. Cash.....	80.00
Mar.	3. Cash.....	20.00
	9. Cash.....	10.00
	14. Cash.....	20.00
"	31. Cash.....	31.44
Apr.	4. Cash.....	30.00
	10. Cash.....	10.00
May	1. Cash.....	100.00
	8. Cash.....	.30
	9. Cash.....	15.00
	16. Cash.....	10.00
	20. Cash.....	10.00
	31. Cash.....	81.47
June	30. Cash.....	75.00
July	18. Cash.....	40.00
Aug.	2. Cash.....	75.00
Total.....		2,153.35

EXHIBIT P.

State of A. A. Miller's account with Vacuum Oil Company, from January 1, 1881, to July 31, 1882.

Debit:		
Jan.	21. Currency.....	\$20.00
Jan.	31. Currency.....	92.00
Feb.	17. Currency.....	20.00
Feb.	28. Currency.....	92.00
Mar.	19. Currency.....	60.00
Apr.	4. Currency.....	8.65
July	16. Currency, on account.....	50.00
Aug.	10. New York draft.....	50.00
Aug.	17. Currency.....	75.00
Aug.	22. Money paid by A. N. Reynolds, July 11.....	50.00
Sept.	1. Currency.....	119.20
Sept.	19. Currency.....	50.00
Sept.	30. Currency.....	75.00
Oct.	13. Currency.....	35.00
Oct.	20. Currency.....	20.00
Oct.	31. Currency.....	105.18
Nov.	4. Currency.....	75.00
Nov.	10. Currency.....	100.00
Nov.	11. Currency.....	175.00
Nov.	16. Currency.....	30.00
Nov.	28. Currency.....	20.00
Nov.	30. Currency.....	69.92
Dec.	1. Currency.....	40.00
Dec.	27. Currency.....	10.00
Dec.	30. Currency.....	15.00
Dec.	31. Currency.....	76.75

1882.		
Jan.	5. Currency	\$25.00
Jan.	19. Currency	10.00
Jan.	28. Currency	50.00
Jan.	31. Currency	90.44
Feb.	1. Currency	30.00
Feb.	4. Currency	20.00
Feb.	16. Currency	10.00
Feb.	21. Currency	10.00
Feb.	28. Currency	80.00
Mar.	3. Currency	20.00
Mar.	9. Currency	10.00
Mar.	14. Currency	20.00
Mar.	31. Currency	81.44
Apr.	4. Currency	30.00
Apr.	10. Currency	10.00
May	1. Currency	100.00
May	9. Currency	15.00
May	m. Labor, machinist	.30
May	16. Currency	10.00
May	20. Currency	10.00
May	31. Currency	81.47
June	30. Paid his wife	75.00
July	18. New York draft	40.00
Aug.	2. Paid his wife	75.00
		<u>\$2,437.35</u>

Credits:

1881.		
Jan.	31. Salary for January	\$112.00
Feb.	28. Salary	112.00
Mar.	31. 19.31 days' salary	68.65
Aug.	16. Traveling expenses and board from July 1 to August 15	94.20
Aug.	16. Salary up to and including July 31	125.00
Aug.	31. Salary for September	125.00
Oct.	28. Traveling expenses and hotel bill, October 6 to 19, account of Le Roy salt well	35.18
Oct.	29. Salary for October	125.00

Account Le Roy salt well:

Nov.	3. Freight paid on engine, boiler, pipe, etc	\$11.25
	Freight paid on lumber	24.00
	On iron	30.00
	On timber	16.00
	On iron pipe	12.45
		93.70
Nov.	14. Freight on cable	4.70
	Freight on pipe	.25
	C. F. Knight's labor on well rig	165.00
	John Ripton, labor and hauling	22.00
	S. P. Bacon, labor	6.00
		197.95
Nov.	19. Freight on three bundles of pipe	.25
	Gillette & McKenzie, hardware and rope	3.53
	N. B. Keeny & Son, lumber	13.81
		17.59
Nov.	30. Salary for November	125.00
Nov.	30. Traveling expenses and hotel bills, including 1,000 miles passport for November	35.65
Dec.	31. Hotel bills for December	16.00
	Paid Bausch & Dransfield, hydrometers	.75
		16.75
Dec.	31. Salary for December	125.00
Jan.	28. Traveling expenses and hotel bills for January	11.44
Jan.	31. Hotel bill at Le Roy, January 1 to 30	23.00
	Telegrams	1.20
	Drawing casing	1.00
	Railroad fare	2.25
		27.45

Account Le Roy salt well:

1881.

Jan.	31.	Salary for January.....	\$125.00
		Freight paid R. and P. R. R. on pipe.....	\$7.80
		Paid Bausch & Dransfield, 1 hydrometer.....	.75
		Paid Ecklin & Seiz, 1 casing clamp.....	3.00
			11.55
Feb.	11.	Paid Gillette & McKenzie, nails and 1 file.....	1.16
		Paid John Ripton, hauling pipe.....	1.00
		American Express charges on pine, etc.....	.40
		R. and P. R. R., freight on pipe, fittings, etc.....	5.00
			7.56
Feb.	28.	Traveling expenses, hotel bill, and telegrams.....	16.85
Feb.	28.	Salary for February.....	125.00
Mar.	31.	Salary for March.....	125.00
Mar.	31.	Traveling expenses Le Roy salt well.....	7.30
Apr.	28.	Traveling expenses, Le Roy salt well.....	6.50
Apr.	29.	Salary for April.....	125.00
May	31.	Salary for May.....	125.00
			2,247.35
June	30.	Salary for June.....	125.00
July	31.	18 days' salary.....	75.00
			2,447.35

STATE OF NEW YORK,

County of Monroe, ss:

F. N. Beach, being duly sworn, says he is the secretary of the Vacuum Oil Company, Rochester, N. Y., and that he has supervision of the books of said company. The foregoing statement of account embraces the full, true, and correct copy of each and every entry upon any and all books or documents or accounts of said Vacuum Oil Company, containing or referring to any account of Albert A. Miller, during or since 1881.

F. N. BEACH.

Subscribed and sworn to before me this 21st day of February, 1885.

A. L. MABBETT,
Notary Public.

I also was subpoenaed to produce here the record books containing the proceeding of the board of directors of the company, and I now produce the same. I know John D. Archbold, and I know his handwriting.

The district attorney then calls the attention of the witness to the meeting of the board of directors of the Vacuum Oil Company held January 18, 1881.

Witness says these meetings are in the handwriting of John D. Archbold.

The district attorney then read from the meeting of January 18, 1881:

"Meeting of the directors of the Vacuum Oil Company held January 18, 1881.

"Meeting called to order by Charles M. Everest, vice-president. Present, Henry H. Rogers, Charles M. Everest, and John D. Archbold.

"On motion John D. Archbold was appointed secretary.

"Waiver of notice by A. M. McGregor and H. B. Everest presented to the secretary.

"H. H. Rogers moved that a dividend of 40 per cent., payable as of January 1st, and 10 per cent., payable as of January 1st, be paid at once from the earnings of the company.

"Carried.

"On motion, adjourned.

"(Signed)

"JOHN D. ARCHBOLD.
Secretary pro tem."

The district attorney further offered and read from the minutes of December 23, 1881, from page 72 of the record book, as follows:

"On motion of H. H. Rogers, and seconded by John D. Archbold, a division of (blank) per cent. of the capital stock of the company was declared, payable on the 27th of December, 1881."

(The defendants' counsel objected to the admission of this evidence.)

By the COURT. I will allow the district attorney to read the resolution, omitting the amount of the dividend in this one instance.

(Defendants' counsel excepts.)

The district attorney further reads from the minutes of July 28, 1883, so far as to show that a dividend was declared, but without reading the amount.

To this the defendants' counsel objected. The objection was overruled, and the defendants excepted.

On motion, a dividend of (blank) per cent. be declared from the earnings of the company; (blank) per cent. payable in cash at once, and (blank) August 10, 1883. Present, H. H. Rogers, A. M. McGregor, J. D. Archbold, and C. M. Everest.

"J. D. ARCHBOLD,
Secretary."

The prosecution here offered in evidence a certified copy of the articles of incorporation of the Vacuum Oil Company. The defendants objected to it as immaterial. The objection was overruled, and the paper was received in evidence as Ex. Q, and the defendants excepted.

EXHIBIT Q.

STATE OF NEW YORK,
Monroe County, ss :

We whose names are hereto annexed do hereby certify, that we have associated together as a manufacturing corporation to continue in existence till the 1st day of August, 1886, for the purpose of conducting and carrying on the manufacture of oils from petroleum; that the corporate name of the said company is The Vacuum Oil Company; that the amount of the capital stock thereof is \$10,000, and is divided into forty share of \$250 each; that the number of trustees of the said company is five; and that the following are the names of the trustees who will manage its concerns for the first year, viz: Hiram B. Everest, Joseph Everest, Mathew P. Ewing, John D. Helmer, and John H. Jeffres; and we do further certify that the manufacturing operations of said company will be carried on in the city of Rochester, in the county of Monroe aforesaid.

Dated August 28, 1886.

HIRAM B. EVEREST.	[L. S.]
JOSEPH EVEREST.	[L. S.]
M. P. EWING.	[L. S.]
JOHN D. HELMER.	[L. S.]
JOHN H. JEFFRES.	[L. S.]

WYOMING COUNTY,
Town of Pike, ss :

On this 1st day of September, 1866, before me, the subscriber, a justice of the peace in and for said county, appeared John D. Helmer, to me known to be the same person described in and who executed the foregoing instrument, and acknowledged that he executed the same.

O. W. EMORY,
Justice of the Peace.

MONROE COUNTY,
City of Rochester, ss :

On this 30th day of August, 1866, before me, the subscriber, a commissioner of deeds in and for said county, appeared Hiram B. Everest, Joseph Everest, Mathew P. Ewing, and John H. Jeffres, to me known to be the same persons described in and who executed the foregoing instrument, and severally acknowledged the execution thereof.

WM. L. INGRAHAM,
Commissioner of Deeds.

STATE OF NEW YORK,
Monroe County Clerk's Office, Rochester, N. Y. :

I, Maurice Leyden, clerk of the county of Monroe, of the county court of said county and of the supreme court, both being courts of record, having a common seal, do hereby certify that I have compared the copy of articles association (Vacuum Oil Company) hereto annexed with the original now on file in this office, and that the same is a transcript thereof and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county this 30th day of April, A. D. 1887.

MAURICE LEYDEN,
Clerk.

(Endorsed :) The Vacuum Oil Company, of Rochester. Articles association.

The prosecution here rested their case.

The defendants' counsel here moved the court to advise the jury to render a verdict of acquittal of the defendants John D. Archbold, Henry H. Rogers, and Ambrose McGregor. The jury thereupon rendered a verdict of acquittal as to those defendants, in pursuance of the advice of the court.

The defendants' counsel then requested the court to direct a verdict of acquittal of the defendants Charles M. and H. B. Everest upon the grounds: (1) That the evidence in the case is not sufficient to warrant the conviction of the offense alleged in the indictment; that the indictment charges one indivisible crime, consisting of many elements, which elements are unified by a paragraph in the pleading inserted for that purpose, and on account of which defendants' demurrer was overruled; that the prosecution can not succeed without proving all the elements which thus united make up the crime charged in the indictment. (2) That there is no evidence of any overt act committed in the county of Erie, and therefore that the courts of sessions and oyer and terminer of Erie County have no jurisdiction. The motion was denied, and the defendants excepted.

HENRY D. CLEMONS, a witness on behalf of the defendants, testified:

I formerly resided in Corry, Pa., and removed to Hartford, Conn., April 28, 1885. I know Albert A. Miller; he rented a house of me in Corry, in April, 1885; I saw him and made a verbal agreement with him on the 13th of April; the lease was not given on that day; I saw him at my house on the corner of Northwest and Pleasant streets in Corry; that is the house that I leased to him. On that day I had a conversation with him at my house; there were present besides ourselves, my wife, another lady, and my two sons, one about five years old; Miller at that time stated to me that he was in connection with the Buffalo Lubricating Oil Company, and that they had commenced a suit for damages against the Standard Oil Company for \$250,000; that they had already got judgments against the Standard Company in one suit for a large amount; that they were sure to win, and that he, Miller, would receive as his share of the judgment to be obtained not less than \$40,000. He spoke at that time of purchasing my house and lot; he said in reference to that that he would soon have money enough from the judgments already obtained, and to be obtained, to pay for it, and much more; I executed to him the lease of my house on the evening of the 27th of April, 1885, at the works of the American Writing Machine Company on North Center street, the third door north of the railroad track. At that time he repeated to me the statements which he made to me before at my house; he said to me at that time that pending those suits he was obliged to seek employment elsewhere than in Buffalo.

Upon cross-examination the witness said: I am in the employ of the American Writing Machine Company, manufacturing writing machines, and have been since April 29, 1885; I have a memorandum of the date; I looked at it last perhaps two months ago, for the purpose of finding out when I arrived in Hartford; I wanted to find that out on certain business that I had wanted to attend to, business in Corry; in writing to my agent about the rent and other matters that I had with my agent there in Corry it was necessary, in writing to my agent, that I should have the exact date when I arrived in Hartford; I made the record in a memorandum book when I arrived in Hartford, the same day I got there; I got in Hartford at 12 o'clock and 5 minutes, noon, or p. m., just five minutes; I looked at my watch at the depot; it was not any later nor any earlier; I did not make the record then, not until evening, when I make my records of the proceedings of the day; I don't know at what time I took out my book—it was in the evening; I did not take out my watch; it was not important that I should know just at what time I got into Hartford; five minutes earlier or five minutes later would have made no difference; I did not put it on the tick that I arrived at Hartford at 12.05; this book is in Hartford; I did not bring it up here. I came here yesterday morning; the defendants, or one of their agents in the case, sent for me; it was A. G. Mack; his name was signed to the telegram; I know him; he is a relative of my wife's; he is her uncle; I have known him about twenty years, and have met him perhaps four times in the twenty years; I never saw him at Corry; my wife lived in Corry while I did; I had made a previous arrangement with Captain Mack to come to Buffalo upon the telegram; that was about the 1st of March, in Hartford; he was there to see me about this lawsuit; he staid with me over night, and made arrangements about my transportation here, and for my time a reasonable recompense, the same amount that I received from the company—I worked for \$5 a day—for all the time that I lost attending to this suit; I made a statement to him there at our house in regard to a conversation that I had with Miller in Corry; he wrote it down in the first place; afterwards I wrote it and corrected it myself; he wrote it all out after he had talked with me; I took the statement and re-wrote it, corrected it; I last saw it in Buffalo this morning with Mr. Outerbridge, one of the attorneys for the defendants; it was in the rotunda of the court-house; I did not ask to see it; I read it over; he didn't ask me to; I read it over for the simple reason of reading it over.

Q. Just to practice in reading?—A. Well, perhaps we might call it practice in

reading. I resided at Corry about eighteen years. At the beginning I was connected for a number of years with the Erie Tank Line Company; that was not a company owned or controlled by the Standard Oil Company. Next I was in a box manufactory, perhaps one year; then superintendent of a brush block manufacturing company; then I was in the employ of the Climax Mower and Reaper Company, perhaps ten or twelve years; then in the employ of the American Writing Machine Company; then I went East. I have a present recollection that the conversation of April 13, 1885, was in the evening; I put it down in my diary or memorandum book, which is now in Hartford; I don't know that I put down the hour; it was about half-past 7; I didn't return from the shop until about 7, and I had just got through supper when he came; I didn't bring that book from Hartford because I packed it away at the end of the year. The last time that I saw that book was perhaps two months ago; that was the last time that I looked at these memoranda in regard to Miller coming there April 13, 1885; that was not the time Captain Mack was there. I was looking over these memoranda about Miller two months ago in connection with renting my house, sending to my agent in Corry. He had sent no statement of moneys received, or anything of the kind, and I was looking and asking him to make a statement of all moneys received, and what he had done with the moneys. At the time in question I didn't fix the price upon my house to Miller; Miller did not say in what capacity he was connected with the Buffalo Lubricating Oil Company; he said, "We have commenced a suit."

I did not write this all out that Miller said, in my book, nor any portion of it; I did not write in my book that he said that he was connected with the Buffalo Lubricating Oil Company, nor that "We had commenced a suit for damages against the Standard Oil Company for \$250,000," nor anything like those two sentences; nor that the Buffalo company had already got judgment against the Standard company in one suit for a large amount, and that they were sure to win; I did not, at that time, know that no such thing had taken place, nor anything about it; I did not know that there was, in fact, no judgment against the Standard Oil Company; I did not know anything about it except what Miller told me; I had reason to believe that he was telling me the truth; I did not write down that Miller said that he was to get \$40,000; after this conversation with Miller I couldn't tell when was the next time I thought about what Miller had said; I did not write down in my book whenever I thought of it.

Captain Mack is the brother of my wife's mother; he did not tell me, while at Hartford, what his employment was in this case.

I left Corry the next day after the conversation with Miller, of which I have spoken. I have heard that my wife's mother came on from her home at Oil City to Corry while Captain Mack was in Corry, and after Miller had rented the house of me; it was perhaps two months after she came to Corry before I knew it; I have been told that she met Captain Mack there; I didn't know that she was instrumental in introducing Captain Mack with the Millers, or soliciting that he should board with them; I have reason to believe that Captain Mack has been employed as a detective for the Everests; I don't know that he has given money to people with instructions to get Miller out and get him intoxicated and see what they could get out of him.

The conversation of the 13th of April occupied perhaps an hour; I think on the 27th, perhaps, he was nearly an hour in the office; L. D. Pierce was present at the time of the execution of the lease; he signed it as a witness.

EDWARD J. CLEMONS, a witness for the defense, testified: I am the son of the last witness, and live at Hartford; I was present at my father's house in Corry on the 13th of April, 1885, when there was a conversation between him and Albert A. Miller; at that time and place I heard Miller say this in substance, that he was connected with the Buffalo Lubricating Oil Company, that they had commenced a suit for damages against the Standard Oil Company for \$250,000; he said that the Buffalo company had already got judgments against the Standard company for a large amount, and that they were sure to win; he said that he would receive as his share of the judgment to be obtained in the \$250,000 suit against the Standard Oil Company not less than \$40,000; I believe he had a conversation with my father at that time in regard to purchasing the house and lot; he said at that time that he would soon have money enough from the judgments already obtained, and to be obtained, against the Standard company to pay for the house and lot, and much more.

Being cross-examined, the witness said: I am eighteen years old; I don't know positively whether Miller used those words or the substance of those words.

After this conversation in Corry, I don't remember when I first talked it over with my father or my mother; it was sometimes talked about at the table at our home; we commenced to talk about it soon after that time; I don't know how many times we have talked it over; I have not kept a memorandum of it; I can recall two or three times; I can not give about the time of the first occasion; one date was during this winter after Captain Mack had arrived in Hartford; we talked it over in our sitting room; my father and mother, Captain Mack, my little brother, six or seven

years old, and I were present; on that occasion the subject of my coming to Buffalo as a witness was talked about; my expenses were to be paid; and for my time, the same that I received at the American Writing Machine Company, that was, \$2 a day; money was paid to my father for our expenses to get here with; we came together; during the journey I didn't talk over with my father the subject-matter of my testimony to be given here, not a word; I have some since I have been here; we have spoken about it in this court room yesterday; I have not seen the statement that my father furnished Captain Mack since I left Hartford; I did not hear it read out in the hall, when my father read it over; he did not tell me the substance of it; I heard him testify this morning; I made a statement to Captain Mack as to my recollection of the conversation in Corry; it agreed precisely with my father's; I made a statement at the same time in writing that my father did; we both sat down to write at the same time at different tables; my father got through first; I did not read my statement over to my father; I could not tell whether he read his over to me; I don't know where the statement is that I made out; I don't remember when I last saw it; it was in Hartford in the hands of A. G. Mack; I never saw again the statement that I made out; it was the latter part of last summer or the early fall.

I saw Captain Mack again in Hartford last March, I believe; I did not then see him write out a statement, and I wrote out none.

I was with my father in Corry the whole time that he lived there; I did not see Captain Mack in Corry; at the time that I made this statement to Captain Mack I didn't understand that he was the employed agent of the Everests, or the defendants in this litigation; he did not state at that time what he wanted my evidence for, or what he wanted us to come to Buffalo for; I don't think that he wanted us to come to Buffalo; in March he stated why he wanted us to come here—the last time he was in Hartford; I was not aware that he was in the employ of the defendants; I did not understand so; I supposed he must have had something to do with the case on behalf of the defense; I did not know anything about it; I surmised that he was; I have not seen Captain Mack around here to-day.

Being again examined for the defendants, the witness said: My mother is now sick

ALFRED P. WRIGHT, a witness for the defendants, testified: I live in Buffalo and am a commission merchant; I know Charles B. Matthews; I had two conversations with him in 1885, likely to be October or November; one of them was at Henry Morse & Company's back office; the other one was, I think, on the corner near there.

Q. Then did you have a conversation with him in regard to the suits which he had then pending against the Standard Oil Company and the Messrs. Everest, and this indictment?—A. I had a talk with him about buying out his plant and settling up this litigation.

Q. The litigation of which I have spoken?—A. Yes, sir.

Q. Did he, at that time, propose to sell to you the works of the company, and to settle and withdraw the suits, civil and criminal, for \$300,000?—A. I so understood him.

Q. Did you say to him that you would not submit that proposition?—A. There were two gentlemen present at that interview; Mr. Hiram Benedict was the other.

Q. Did you say to him that you would not submit that proposition?—A. I did.

Q. Did he then propose to sell the works and settle all suits, civil and criminal, for \$250,000, at that time?—A. No, sir.

Q. Did he at a subsequent time?—A. Yes, sir; he did.

Q. Did you have a conversation as to the value of the works, of the plant, as you properly term it?—A. Mr. Matthews, Mr. Benedict and myself, all talked about the value of the works when we were talking about this settlement.

Q. Did he put the value of the works at \$70,000?—A. Well, it was figured up between these three gentlemen as from \$70,000 to \$80,000 for what the plant was now worth.

Being cross-examined, the witness said:

Q. You know John D. Archbold?—A. Yes, sir.

Q. And how long have you known him?—A. Well, I should say six years, perhaps it is seven.

Q. Do you know Henry H. Rogers?—A. Yes, sir.

Q. And how long have you known him?—A. Well, I don't think I can answer that question; I have known him for a couple of years, at least; I don't know but that I was introduced to him before.

Q. Do you know Mr. McGregor?—A. I don't.

Q. You know John D. Rockefeller?—A. Yes, sir.

Q. You are a stockholder in the Rock City Pipe Line?

Mr. COGSWELL. That is objected to.

A. I was at one time.

Q. When did that cease?

Mr. COGSWELL. That is objected to.

The COURT. I think I will let him answer.

A. Well, I should say it was four or five years ago, at least.

Being cross-examined, the witness said: The first time I met Mr. Matthews upon the occasion in question, I met him in Henry Morse & Company's office; Mr. Morse has an office on Seneca street, right opposite the Board of Trade, just as you go down stairs, or did have it at that time; I met Mr. Matthews there by appointment with Mr. Benedict at that time; I asked Mr. Benedict to come there and Mr. Matthews to come with him; the meeting was at my suggestion; I did not want to engage personally in the purchase of these works; at the early stage of the talk I was not acting for anybody.

Q. Well, at the early stage of the talk, did you want to go into the oil business, Mr. Wright?—A. No, sir; I had no interest in making the purchase, only I expected to get the commission, if I could get the trade; I did not care particularly which side should pay the commission; I did not want to buy as a speculation; I expected to get my commission from one side or the other; I was thinking of the buyer, or the seller; I was thinking it would probably come out of the seller; I expected a friend of mine, Mr. Daniel O'Day, would be the buyer; he has the reputation of being a Standard Oil Company man; I don't know that he is, because I have never seen any written documents; but I know that he is interested in it from his own conversation; he lives in Buffalo; it was not at his suggestion that I was to endeavor to purchase the works; it was at the suggestion of myself to Mr. Benedict, as a friend of Mr. Benedict; I was at the time acting as a friend of Mr. Benedict; I expected to make a commission out of it from Benedict, if I made the trade; I was the moving party in the matter, not Mr. Matthews nor Mr. Benedict; the conversation in Mr. Morse's office occupied, I should judge, half an hour; I am positive that something was said about the criminal prosecution.

Q. Were you anxious to settle any prosecution?—A. I was anxious to have Mr. Benedict close up that trade.

Q. Were you anxious to settle any criminal prosecution?—A. Yes, sir; I had not the slightest personal interest in it; I wanted to settle that matter.

Q. For whom were you anxious to settle any criminal prosecution?—A. I should say, nobody.

Q. You have already stated that you had, personally, no interest to settle any criminal prosecution?—A. No.

Q. And you further stated that you were anxious to settle the criminal prosecution?—A. Yes.

Q. If you were not anxious for yourself, for whom were you anxious to settle the criminal prosecution?—A. I say I was anxious for Mr. Benedict; I was interested for Mr. Benedict; he was not indicted; he had nothing to fear from any criminal prosecution; he was one of the owners of the stock of the Buffalo Lubricating Oil Company, but it made quite a difference to Mr. Benedict what price he got; I was looking after the interests of Mr. Benedict; I don't say purely that; I wanted to make this trade for my friends, the gentlemen who were interested in this suit; for Mr. O'Day, not for any other parties. We had a second conversation on Seneca street; I can not just tell where it was, between Main and Pearl; I don't think it was by appointment; I met Mr. Matthews; I don't now remember whether Mr. Benedict was present or not, but I am inclined to think he was, though I am not sure; I should say it was three or four days, perhaps a week, after the first meeting; it was not by appointment of either me or Mr. Matthews, that I remember; I knew of no method of settling a criminal action except by consent of the court, and under advisement of the court.

Q. You did not for a moment suppose that there was any court that would enter into an agreement for the settlement of a criminal action?—A. I hadn't any thought about that.

Q. Then you knew it was impossible for any person to settle a criminal action except the court, did you not?—A. I suppose that is the law.

Upon being further examined for the defense, the witness said: My reasons for answering that it was for Mr. Benedict that I was anxious to settle the criminal prosecution, was, that I was anxious to have him settle the whole matter; I had talked with him a number of times about it; that I was a personal friend of his, and thought it was the wisest thing for him to settle these suits, and get out of the oil business in the way he was now doing it, and in furtherance of that, I had a number of interviews with Mr. Benedict, and these two interviews that I speak of with Mr. Matthews, which extended over perhaps a period of at least a month; in fact my first interviews, three or four of them, with Mr. Benedict were before I ever talked with Mr. O'Day about it.

The witness CHARLES B. MATTHEWS, being recalled for further cross-examination, testified:

I have seen Mr. Benjamin Browster here in this room; I don't recollect having a conversation with him in the spring of 1882, at No. 44 Broadway; I don't think that

at that time and place I offered to him and Mr. J. A. Bostwick to sell our Buffalo property here, the Buffalo Lubricating Oil Company, for \$100,000

BENJAMIN BREWSTER, a witness for the defendants, testified as follows:

I live in New York; I have met Mr. Charles B. Matthews; I met him in New York, at 44 Broadway, at my office; I am unable to fix the date, but during the year 1882; my best recollection is that it was in the spring; in the spring of 1882, at No. 44 Broadway, Mr. Matthews offered to sell me the property of the Buffalo Lubricating Oil Company here, for \$100,000.

Upon cross-examination, the witness testified: I am a director of the Standard Oil Company, and have been for several years; I am a trustee of the Standard Oil Trust, and have been since its formation; I am what is called a Standard Oil Company man; I have no recollection about the purchase of the Vacuum oil stock and its transfer to the Standard Oil Company; I have known latterly that it did own a majority in the stock; I don't think I had any definite knowledge that there were to be built works here in Buffalo that were not controlled by the Standard Oil Company, or Standard Oil Trust, until about the time that this conversation, this interview, between Mr. Matthews and myself occurred; I have no impression on my mind to the effect that I knew there was such an institution as the Buffalo Lubricating Oil Company up to the time of that conversation; I may have known there was such a concern; I never knew Mr. Matthews before I met him on this occasion; so far as I know, I never had met him; it was at my private office, 44 Broadway, that I met him.

Q. What branch of the business of the Standard Oil Trust do you take care of?

(To this the defendants objected as incompetent, irrelevant, and immaterial; the objection was overruled and the defendants excepted.)

A. I am the treasurer of the trust. I am a director of the Rock Island Railway, of the Chicago and Indiana Coal Railway, of the Keokuk and Des Moines Railway; I think of no others; I give very little attention to the railroad interests, mostly to the Standard Oil Company.

Q. Do you give any attention to your railroad interests?

(The defendants objected to this as incompetent, immaterial, and irrelevant; the objection was overruled and the defendants excepted.)

A. Only in an advisory way as a director.

Q. Then we are to consider you, Mr. Brewster, as a busy man?—A. Yes, sir.

Q. As treasurer of the Standard Oil Trust, and representing so many railroad interests, and in connection with this busy life of yours, it may be that you do not recollect everything that transpires correctly?—A. That is correct. Upon the occasion in question I think Mr. Bostwick asked me to meet Mr. Matthews, and see what he had to say; Mr. J. A. Bostwick, who was at that time an associated trustee of the Standard Oil Trust; he was also connected with the Standard Oil Company; I do not recollect that the subject of the purchase of any tanks was a part of the conversation; I think it was not; I think the conversation related to the sale of the Buffalo Lubricating Oil Works and business, and that is all; I think at that time we were not foreclosing any mortgages upon the Solar Works; I think this was subsequent to that; I am not positive; there was not a word in relation to the purchase of tanks, as I believe; this conversation was solely upon the matter of selling the business and plant of the Buffalo Lubricating Oil Works.

Q. Did you, at the time of the interview in question, have any information of any methods that had been used to interfere with the business of the Buffalo Lubricating Oil Company?—A. I had not; I knew at the time of the purchase of the Atlas Oil Works here in Buffalo.

The witness, by permission of the court, further stated: I only thought it was fair to say, that my interest in railroads is older than my interest in the Standard, and was prior; they have no connection whatever.

WILLIAM O. ALLISON, a witness for the defendants, testified as follows:

I live at Englewood, N. J.; I know C. B. Matthews, and have for four or five years perhaps; I met him here in Buffalo in 1885, at his office; I don't remember the street; I also saw him at a hotel not far from his office, but I don't remember what street it was; assuming that his office is on Main street, the hotel is entered from a street leading off from Main street; on these occasions the subject of these suits was talked of between us—the indictment as well as the civil suits; there was a conversation between us as to the terms upon which all this litigation could be settled.

Q. Did he say to you at that time that all the difficulties with the Buffalo Company could be settled for the sum of \$300,000?—A. Yes, sir; I saw him after that at Syracuse, at the Globe Hotel, about a week or ten days after; he had telegraphed me to meet him there, and we had there a conversation of considerable length; the subject of it was the differences between the Buffalo Company and the Everests, the

Standard Oil Company, Archbold, and McGregor; I suggested to him, in substance, that \$300,000 was an excessive sum as a consideration of that settlement.

Q. Did he, in answer to that, say to you that \$250,000 might be accepted, or that in substance?—A. Yes, sir; he said to me, in substance, that I might communicate to the New York parties the proposition for a settlement at \$250,000; he met me at one time at my residence in Englewood; he also met me at the Astor House, in New York, in December, about a month after the meeting at the Globe Hotel; I think I met him more than one time at the Astor House.

Q. Did he, at that time, say to you that if \$250,000 was paid the criminal case would be nolle prossed?—A. Yes, sir; "nolle prossed" is the legal term, I think, he used.

Q. Was the question discussed between you and him of how the criminal case could be nolle prossed?—A. Yes, sir.

Q. Did he say that he could settle it?—A. He said that he could do such things as would cause its settlement.

Q. Well, I will come to that in this case. Did he say to you that if the money was paid—I do not know but I have asked that question—the criminal prosecution would be nolle prossed?—A. Yes, sir.

Q. Did he say to you that if the money was paid the matter should be kept secret?—A. Yes, sir.

Q. Did he say to you, in substance, that in that event he should be taken into the employment of the Standard Oil Company?—A. Yes, sir; or that in substance.

Q. And that if he was so taken into this employ he would be able to control all the outside trade in Buffalo in favor of the Standard?—A. All, or the principal outside trade.

Q. Did he say to you on that subject that in case a settlement was brought about he would expect to take care—look after Miller himself?—A. Yes, sir.

Q. Did he say to you at the Globe Hotel that if the sum of \$250,000 was paid he wanted it paid in two sums?—A. He made such a statement. I am not clear whether the one statement was made at the Globe Hotel, or one at the Astor House, or one at my cottage; I can not swear positively where each and every statement was made; one of them was made at either one of those places. My recollection is that he wanted it in one sum of \$100,000 for the company, and the difference of one hundred and fifty thousand or two hundred thousand for himself.

At this point the witness CHARLES B. MATTHEWS was recalled for further cross-examination, and testified:

I did not state to Mr. Allison at the Globe Hotel, at the time which I was interrogated about when I was on the stand before, in speaking of the discontinuance or nolle prossing of the indictment against these parties, that if the matter was settled, and the money paid, Miller was out of the State, and could not be got back unless I required it; I did not, at either of these occasions that I have spoken of—the Globe Hotel, the Astor House, or Mr. Allison's residence—I did not, on either of these occasions, in talking in reference to this same subject of discontinuing or nolle prossing the indictment, say that I should also need a vacation, and I would go to California.

The witness ALLISON, being recalled, further testified:

Q. Did Mr. Matthews state to you, at the Globe Hotel, in conversing about nolle prossing the indictment, that Miller was out of the State and could not be got back unless he required it?—A. That he could not be gotten back, and they could not compel him to come into the State to testify, and that he would not come unless he wished it.

Q. Did he say anything in regard to his own absence from the State?—A. Yes, sir; he said about that time—

Q. Did he say to you that he should also need a vacation, and that he would go to California?—A. Yes, sir; or to Europe.

Upon cross-examination the witness said: I have lived at Englewood for thirty-eight years. I came on as a witness in this case, having received a subpoena from Mr. Curtis, I think his name is; a clerk, I think, in the Standard building. My business is, I am a broker in securities. I am connected with a railroad as secretary of the Palisade Railroad in New Jersey. It is not running; it is in construction. I am owner of a publication, the Painter's Magazine. I have run various other publications. The first was the Oil, Paint, and Drug Reporter. I have no interest in business with any of these gentlemen here in Buffalo. I think never have had. The magazine which I publish I own exclusively; no one else has any interest in it. I don't remember that I have had any talk with Mr. Archbold in regard to the subject-matter of my testimony since I have been here. I have talked with him since I have been here in the court to-day, probably yesterday. I have been here in Buffalo since a week ago Monday. I am stopping at the Genesee. Some of these defendants are stopping there. I have had talk with Mr. Rogers, very casually, upon the subject of my testimony; not with Mr. McGregor.

I have known Hiram Everest probably fifteen years. I made his acquaintance in the oil trade, I don't remember just where. I was a reporter and met him. I met him in the lubricating-oil trade. He was then manufacturing and selling lubricating oils. I was then reporting the markets for oils for newspapers. I reported for various publications. I have not met him frequently for a great many years. I have known Charles M. Everest perhaps three or four or five years. I never knew him very well. I first met Mr. Matthews perhaps four years ago; I do not recollect. I first met him in regard to the occurrence I have spoken of on the 7th of November at his office in Buffalo. I was on my way to California and stopped over here; not at the request of any individual. I did not come here at the request of any person to see Mr. Matthews. I did not come here upon my own motion, but for the publishers of the Oil, Paint, and Drug Reporter. I did not come here at Mr. Matthews' request, I think. I stopped off here to look after the interests of the paper and see Mr. Matthews. I don't remember whether I sent any telegram to Mr. Matthews prior to my coming. I don't think I had any other business here in Buffalo than to see Mr. Matthews.

I don't recollect who besides Mr. Matthews I saw in Buffalo upon the occasion in question. I think nobody that I understood to be connected with the oil interests here or elsewhere.

Q. Did you have any interest in these lawsuits?—A. No, sir; only a friendly interest for Mr. Matthews and the other gentlemen—the Messrs. Everest and Rogers, and Archbold. I will leave out McGregor. I came as a mutual friend.

Q. Then you came here as a friend for Rogers, Archbold, McGregor, and Everest?—A. And Matthews.

Q. As a mutual friend?—A. Yes, sir; no one suggested that I should come as a mutual friend; I do not recollect how I learned of these litigations; I don't know positively how long I had any knowledge of them previous to coming to Buffalo; I do not think I knew in detail what they were about; I knew from common report; I probably saw it in the newspapers, and probably heard it discussed by oil men; I will not say which newspaper I saw it in, I read a great many; I will not say what oil men I heard discussing it; I can tell that I have talked on this subject to various oil men, but I don't know whether it was before or after this time; I had some information before I came to Buffalo; I don't think I had any talk with either Rogers, Archbold, or McGregor about these litigations before coming to Buffalo; it may have been mentioned by them, or by me; I think I knew of an indictment against these gentlemen, before coming here, but I am not sure; I did not come here for the purpose of settling any litigation; it is rather difficult for me to say just what was in my mind when I called upon Mr. Matthews, but I thought I would call upon Mr. Matthews and see what he wanted; I was not a party to these transactions, was not financially interested in the litigations personally, but was as a friend of Matthews, Archbold, Rogers, and McGregor; I had absolutely no instructions from anybody as how to settle these litigations; I told Mr. Matthews so; I wanted to find out what Mr. Matthews wanted—what he had to say. After I got through with this talk, I reported the result of the conversation, I think, to my wife in Syracuse; I went from Buffalo to Cleveland, and then back to Syracuse.

Q. Then you sat down and told your wife about it, did you?—A. I did not say all about it; I never told any one all about it.

Q. You have not told us all about it, have you?—A. No, not by a great deal.

Q. And did you tell your wife all that you have told here?—A. I don't know.

Q. Well, what is your best judgment about it?—A. Perhaps not.

Q. Was your wife interested as a friend to the defendants and Matthews?

Mr. BACON. We object to that. We withdraw the objection.

Q. Did she know these gentlemen?—A. No, sir. The next person to whom I reported my conversation with Matthews was Archbold, or Archbold and Rogers; I don't recollect how long after I got back to New York it was before I told them; it may have been two days or three; I went to them for the purpose of telling them the substance of the conversation; I do not think my wife is a relative of any of these gentlemen; I met them at 26 Broadway, their office; I don't remember telling any one besides them of my interview with Matthews; I don't recollect whether I made any arrangement with Mr. Matthews to come to Cleveland when I left him in Buffalo; I may have made some suggestion to him; I may have told him, I think I did, that I was going to Cleveland, and that if I telegraphed him to come on, I wanted him to come on to Cleveland; I did not know what I wanted him to come to Cleveland, for I did not know what arrangement might be made; I did not know that I would want him to come there at all; I did not intend seeing any one in Cleveland; I do not think I mentioned this matter to any one in Cleveland; I had no particular one in mind that I was to meet in Cleveland; had I found some one there with whom I might have negotiated, I might have asked Mr. Matthews to come and be near the negotiation; by some one I mean Mr. Rogers or Mr. Archbold; I did not expect to meet them there; I had no business in Cleveland in regard to my paper; I was only

taking this in as an incidental matter; it was an intention to do a friendly thing for Mr. Matthews; I do not recollect when I became a friend to Mr. Archbold; I have never been personally unfriendly with him; I am not now in any way connected in any business enterprise with either Archbold, Rogers, or McGregor.

Q. Are you in any way connected with the sale of any bonds or any certificates connected with the manufacture of cotton-seed oil?—A. Yes, sir; I am not the agent of any corporation to sell certificates; I am selling cotton-oil trust certificates; I can not say from my personal knowledge whether it is an incorporation; I believe it is not; neither Rogers, Archbold, nor McGregor is interested, to my knowledge, either as shareholders or in any other way.

Being further examined by defendant's counsel, the witness said: In the conversation with Matthews after he had made this statement of what he would do, he said that he thought he would come and see me about this matter, and that somebody else had been talking, or his associate, either Mr. or Mr. Benedict, the one who is connected with the canals or the canal-boats, had been talking with somebody else about settling this matter, but he would rather negotiate through me; he said that I could see the parties in New York, and we would communicate or meet again; I did meet Mr. Matthews next, after seeing him here, at Syracuse; I don't remember whether I replied to his telegram saying, "Meet me in Syracuse," or whether the telegram I considered was sufficient without answering it; I received a communication from him with reference to meeting him in Syracuse; my wife is a Syracuse lady, daughter of Judge Comstock; when I got there, I conversed with her in regard to the matter as a matter of curiosity, not in detail, in a general way; I think I was negotiating with Mr. Matthews upon this subject, and receiving telegrams from him, and making appointments to meet him, upon that subject, until after the 1st of March, 1886; I conclude that from a telegram dated about that date.

Q. And I think you also said that you did not happen to be fortunate enough to own any stock in the Standard Oil Company?—A. I have owned a hundred shares of Standard Trust for a month about, and that is the only time I ever had any in my life.

Being further cross-examined by the district attorney, the witness said: I may have asked Matthews if I might talk with the New York parties; I do not recollect

FREDERICK G. SAXTON, a witness for the defendants, testified:

I live in Corry, and know Albert A. Miller; I lived there in 1885; my business was keeping a saloon; in the month of December, 1885, Miller was in my saloon, and Captain Mack was there; on that occasion he said to me and Captain Mack, or one of us, that it was the mistake of his life, leaving the Standard or Vacuum Oil Company, and he was bound to get there again; on that occasion he held out his hand, and said, "Here is a palm, black and rough and itching; the party that fills it the fullest can get it and me;" at that time he turned to Captain Mack, and said, "If you have got any proposition to make, now is your time."

Q. Did he say this: "That suit at Buffalo is a damned humbug, but there is some money in it, and you and I may as well make it as anybody else?"—A. He said it was a damned sham, and we might as well make the money out of it as anybody.

Being cross-examined, the witness said:

I have kept a saloon in Corry for two years; I know Captain Mack; he was at my saloon considerable; I can't tell about how much of his time he spent there; he might have been there one-fourth of his time; I think it is doubtful about that; I once had a letter in my possession from Mr. Mack, which I read or showed to Miller; I think he gave me the letter in my saloon; I think I handed it to Miller; on the occasion when I handed him the letter I sent for him.

(Shown a paper.)

That is my handwriting upon the envelope; I can not remember whether I put it in the post-office or not, or whether I sent it down; it seems to me that I stamped it and neglected to put it in the post-office, and then found somebody that was going to the works, and then sent it with them; I am not positive; in answer to this letter Miller called.

The letter and envelope were here offered in evidence.

(The defendants objected to them as utterly immaterial. The objection was overruled, and the defendants excepted.)

The letter and envelope were received in evidence as Exhibits S and T, and are hereto annexed.

(Witness is shown another paper.)

That is my handwriting; I sent it to Mr. Miller; I couldn't tell whether it was in answer to that communication that Miller called upon the occasion of which I have spoken in my testimony; I think the date of the letter was Saturday evening, and he did not come, but came on Sunday.

The letter was offered in evidence.

(The defendants objected to it as immaterial. The objection was overruled, and the defendants excepted.)

The letter was received in evidence as Exhibit U, and is hereto annexed.

(Another letter shown witness.)

That is my handwriting; I can not tell you whether I sent it to Miller or not: I sent him two or three, but I can not tell exactly about this; I might have sent it, I am not positive about it; I should judge I wrote it, it looks like my writing.

(The letter was offered in evidence. The same objection, ruling, and exception were had.)

The paper was received in evidence as Exhibit V, and is hereto annexed.

(Witness is shown another paper.)

I can not swear that that is my writing; I wouldn't want to swear that it is; I do not know; I have known folks to imitate handwriting; I generally know my own writing; that looks like my writing, but I wouldn't swear it was; some of it does and some does not; the "A" in April does not; the rest of it looks very much like my handwriting, with the exception of the "A;" it might be my handwriting; I think perhaps it is; I do not deny the making of the "A", but I do not remember of making the "A" or not; I couldn't tell you whether I sent that to Miller or not.

Q. Do you think it is your writing, with the exception of the "A"?—A. Yes, sir.

The paper was offered and received in evidence as Exhibit W, and is hereto annexed.

I was sending Miller these letters because there was something I wished to know of him; it was in regard to some letters; I couldn't tell you exactly what letters; I was after letters, some letters that Miller had received.

Q. But you said in one of these communications, did you not, "I would like to have you call on me at once as I have something to our interest, strictly private to you and me; call on me between 10 and 2 o'clock to-morrow at my saloon, back door, when I am alone; don't fail"?—A. Yes, sir; it might have been to my interest if I did not know what letters they were. I had been informed by Captain Mack that he had received letters; I could not tell who the letters were from that Miller had, that I wanted to see; I was desirous to get the letters; I do not know the contents of the letters; I did not know their importance nor anything about them; the reason I said "something to our interest" was because I was requested to get them; I was not offered or promised anything for getting them; my interest was assisting a friend of mine, Captain Mack; he had been my friend some little time—six or seven months; he was stopping at the hotel opposite my place; patronizing my place not to any great extent; I wanted Miller to come to the back door because we did not keep the front door open on Sunday; we do not have a Sunday law down there; all the interest that I had in this case was to get some letters for Captain Mack; Miller did come on the Sunday; I do not remember the time, nor whether I gave him liquor or not; I was not there to give him liquor; I did not get the letters; I asked Miller for them; I didn't expect he would give them to me, not at that time; I never got them; Captain Mack asked me to come here as a witness; he asked me some time ago.

I did not answer any questions of the counsel on the other side as to what I heard Miller say on that day; it was one Sunday that he was in there; I can not remember the exact date when we had the talk concerning which I have spoken, but I think it was the 3d or 4th of April; it was in answer to some of these letters; I have had talks with him since the Sunday in question; the conversation of which I have spoken was before the Sunday that he was there at the time that I asked him for the letters.

Q. Did you state to Mr. Miller on that occasion in regard to the letters, showing him at the same time a letter that you had received, that you wanted him to give you some letters for Mr. Matthews, that the Standard Oil Company wanted to buy them, and you and he could make some money out of it?—A. If they were of any value, I told him, yes, sir; I had no idea at all how much money I expected to make in getting the letters; I was promised nothing.

Q. But you told Miller that if he would give up the letters the Standard Oil people wanted them, and you could get some money out of it. How did you know you could get some money out of it?—A. Through Miller; I was the one that asked him to come; I had had a letter previous to that; it was either from Mr. Outerbridge or Captain Mack, I can not swear which; I think I have that letter in my possession.

Q. You have got so many you can not tell; look them over and see if you can find it.—A. I do not think I have it here; I can not find it; I don't remember when I last saw it; I have written Mr. Outerbridge once or twice; I might have received three or four letters from him; I have received a good many from Mack; he and I have not been very industrious in correspondence; not more than friendly correspondence; I have had quite a number of letters from him at different times; I have not been particularly in the employ of Mack and Outerbridge.

Q. Have you in any way been employed or solicited in this matter in regard to Miller by Mr. Outerbridge?—A. Nothing only in regard to some letters.

Q. Have you been solicited or employed by Mack in regard to those matters?—A. Yes, sir. When Miller came there in answer to my letter in regard to the letters, he came into the saloon—the front room; I don't remember whether there was anybody

there or not; I have stalls there, and curtains in front of them to shut them out; at one time, in answer to one of these letters from me, Miller came in this room, and I pulled the curtains back from one of the stalls, and there sat Outerbridge and Mack; that was the time when they wanted to get some letters from Miller; to commence the business, perhaps, I asked Miller what he would have; I don't remember what he took; I do not remember that Outerbridge spoke up and says, "No, let us have champagne;" I could not swear it did not take place, but I will swear that they did not get champagne; I couldn't tell whether Miller spoke up and says, "Beer is good enough for me, champagne is a little too high-toned;" possibly I might have replied that I had no champagne, because I had none; I couldn't tell you whether that happened; I don't remember.

Q. Then Outerbridge says, "Can you not go out and get some champagne?" and Miller says, "You needn't get any champagne for me." Did not that take place?—A. I could not tell; I don't remember it. I will not swear it did not.

Q. Then Outerbridge said, "Well, let us have whisky and seltzer." Did not that take place?—A. I don't remember what they called for. They got what they called for, probably. I couldn't tell how many drinks they got into Miller on that occasion; I don't know about how many; I have no recollection on the subject. I don't remember how long they were in there; they were some little time in there talking. I couldn't tell about how many rounds of drinks they had there; I do not recollect anything in regard to the number of drinks they had. I think they drank there. I could not tell how many times Miller drank; I don't know about how many nor how many I had either, nor Outerbridge. I have been paid nothing up to the present time in this matter but my expenses here. I wrote down this conversation of Miller at that time. I have it here in my pocket. Nobody told me to write it down; I wrote it down so as to remember it for evidence in this court. Captain Mack did not tell me to get Miller drunk. I was told that I was coming to this court at that time and before; I think it was on the 12th of December, 1885, that I was told. Captain Mack told me. He did not say in this court, as I know of, but he said in court. I couldn't tell how much liquor I furnished Miller at the time of the conversation which I wrote down. I am stopping at the Broezel House, in Buffalo. Captain Mack is stopping there. I have talked with him about this lawsuit some since I have been in Buffalo; it has also been mentioned by Mr. Outerbridge and the Everests. I have not been talking anything particular with Outerbridge; I have been talking with him since I have been in Buffalo, at his hotel, the Genesee. I have been talking with the Everests. I have never met them before. I have not talked with anybody else that I know of. Mr. Outerbridge first introduced me to the Everests. I did not talk over this lawsuit at all with them to amount to anything; it was spoken of; I don't think I told them what I was going to swear to.

Being examined on behalf of the defendants, the witness said:

I have found the letter from Mr. Outerbridge to Captain Mack, spoken of yesterday, which I showed to Mr. Miller. (Producing it.)

The paper was offered in evidence as Exhibit 4.

(T. G. Outerbridge, attorney and counselor at law, 105 Powers' Block.)

ROCHESTER, N. Y., April 8, 1886.

A. G. MACK, Esq., *Corry*.

DEAR SIR: You had better have Saxton say to Miller that he informed you of the talk with Miller, and that you wrote me about it, and that I say that no money whatever will be paid until I see the letters myself. And as to the amount to be paid, that also will be determined by me. Have Saxton say to Miller that as I am an attorney in the case I would not go upon the stand, and that even if I did it would be practically impossible to prove letters in that way. I want to see the letters myself, and I should be happy to have Miller present when I look at them. Miller knows me, and knows well enough that I am no shyster, and that there is nothing small about our people, and that if we agree to do a thing we will do it. All we want is simply to buy whatever letters Miller has in his possession, which we deem of value to us. And when we say we will pay him we will do it. Assure Miller, through Saxton, that I will not act unfairly by him, or take any mean advantage of him.

Yours, very truly,

T. G. OUTERBRIDGE.

I was seeking to get hold of some letters which Miller claimed that he had from Matthews; I had told Captain Mack that he so claimed; it was not a great while before this that Miller had told me that he had those letters.

Q. What did Miller say to you on the subject of having letters from Mr. Matthews which he wanted to sell to the Vacuum Oil Company?—A. I do not remember the

exact date when he was talking to me about those letters, but it was somewhere in February, I think; he told me he had some letters—a large stack of letters—and some of them from Matthews, and that he would sell the letters, and that if there was any money in it he might as well get it out; he wanted \$500 for what letters he had to sell; that he would not allow anybody to look at them until he got his money. This (Exhibit 4) is the letter which I showed him.

Upon further cross-examination the witness said: I can't tell whether the conversation that I have related with Miller about the letters was prior to the time that I wrote these letters here. I think some of them were sent for that purpose, to come and talk with me about it; I think one of them was sent for that purpose; I don't remember whether I had a talk with Miller about the letters prior to writing these. Mr. Outerbridge came up there to Corry once; he said nothing at all about giving liquor to Miller; neither did Mack.

Q. Did you swear to this yesterday, and is it true: "What letters were they that you wanted to see; whom were they from that Miller had?"—A. I could not tell?—A. I think when I first asked Miller I did not know who the letters were from; that was true at the time that I first had the conversation with Mr. Miller in regard to the letters; I didn't know whom all the letters were from.

The witness, JOSEPH S. STEARNS, being recalled as a witness on behalf of the defendants, testified: I had a conversation with Mr. Matthews in the latter part of 1884, in my office, or in Swan & Finch's office, in Boston; they were the gentlemen by whom I was employed.

Q. Did he, in that conversation, tell you that he had a suit for \$100,000 pending against the Vacuum Oil Company, or against the Everests?—A. Yes, sir.

Q. Did he tell you, at that time and place, that if he could get judgment in that suit he could put the Everests behind the bars, and that was the only way he could get the Standard people to pay the price asked by the Buffalo Company?—A. Yes, sir.

Q. Did he tell you that the Everests would pay anything in the world before they would allow themselves to be locked up?—A. Yes, sir.

Q. Did you ask him how he could lock them up by the civil suit?—A. Yes, sir.

Q. Did he answer, in substance to you, that a man by the name of Miller had given his deposition that he was hired by the Everests to injure the Buffalo works, and that he had got Miller in black and white?—A. Yes, sir.

Q. Did you say to him, in substance, that you did not believe Miller was reliable, and that as a matter of fact he had lied to him; and did he answer to you, "We do not care, as long as we have got it in black and white, where he can not back out of it; we can use it in any way?"—A. Yes, sir. After that I saw him in Albany; there was some court sitting there at that time; I don't know which one it was. I met Mr. Matthews at the Kenmore House.

Q. Did he state to you, at this time, this, in substance, "I must get the Standard people where I can pinch them before they will come to my terms?"—A. Not there; no, sir; that day he did at the Delaware and Hudson Railroad.

Q. Did he state it to you at your interview at Albany?—A. Yes, sir.

Q. Did he say, "We ought to have brought our suit for \$250,000, and we are sorry we did not?"—A. He said that in Buffalo to me.

Q. That was still another conversation?—A. Yes, sir.

Q. Did he say this at Albany: "We have not yet set a price, but we will see what we want, and I think we can get it, if we can get our judgment against them, because that will give us a hold for a criminal suit against them?"—A. "If we can get a judgment against them we can get what we want."

Q. Did he say, "That will give us a hold for a criminal suit against them?"—A. Yes, sir.

Q. Did he say to you, at Buffalo, when you were here to attend a trial at his request, "We must win this suit at all hazards, so we can get the criminal suit started; then they will be in our power and we can make them come to our terms?"—A. Yes, sir.

Q. Did you tell him, in September or October, 1885, in reference to the Young's Hotel register, that you had learned from the chief clerk of that hotel that the words, "A friend," after the name H. B. Everest, were added by the clerk?—A. Yes, sir.

Q. Did he say to you, in reply, that you must not say anything about it; that he wanted it understood that Mr. Everest wrote it all?—A. Yes, sir.

Upon cross-examination the witness said: This conversation in Albany was either in January or February, 1885.

I came on here at the request of the people, and I had a letter from Mr. Matthews (Produces it.)

After I got here I think I gave the letter to Mr. Outerbridge at the Genesee; I gave it to him to let him read it; I had no particular interest in letting him read it; I did it because I wanted to; I don't think there is anything wrong about the letter,

because I had other letters; I showed it to him because I wanted to, and because I had a right to; that was my business; I did not think there was anything wrong in the matter because the district attorney had said that my expenses would be paid if I came here; I supposed you had a right to do that; I was not particularly anxious that Outerbridge should see it; I have met Mr. Outerbridge every day quite a number of times since I have been here; I have had very few conversations with him in regard to this case, and what I could swear to; I should say we had spoken about it perhaps two or three times; I have had one talk with Mr. Bacon; I made no particular statement to him; I made no statement that was taken down in writing, to him or to Mr. Outerbridge; I told Mr. Root, agent of the Vacuum Oil Company in Boston, some things that had happened; I could not say where I told him; I think it was at 51 Purchase street; I should think it was some time last summer; Mr. Root did not, that I know of, take down my statement; at that time I was in the oil business for Swan & Finch.

The first conversation with Matthews, that I spoke of, was at 7 Exchange Place, at Boston; that is not the first time I have seen him; I saw him before at Atlantic avenue, in 1882; that was perhaps for three or four minutes; this other was December, 1884; I should say he was in my office an hour on that day, and the next day an hour, and I was with him the best part of the time for three or four days.

I was sworn as a witness in the civil case in March, 1885; I said nothing about that in March, 1885; I was not asked about it.

Matthews told me in 1884 that he was going to push this criminal suit—the indictment.

Q. You say that Matthews told you in 1884 that he was going to push this criminal suit?—A. Yes, sir.

Q. The indictment?—A. Yes, sir.

Q. Did you not know that in 1884 there was no indictment found?—A. No, sir; I knew there was no indictment found; yes, sir.

Q. You have just said that he was going to push the indictment; will you please tell the jury how he could say that when there was no indictment found?—A. I do not think I said so. I met him in Albany in January or February, 1885; I was there selling oil; I met him, I should think, about in the neighborhood of 1 o'clock, and left him in the neighborhood of 7; we stopped at the Kenmore; I ate dinner there; I was with him all the afternoon; I made no memorandum of any of these conversations. I wrote to Mr. Matthews, upon the receipt of a letter, that I had no money.

Q. The second time you saw Matthews you had rehearsed a part of that conversation?—A. I will take that back, and state where I did see him the second time; that slipped my mind, but I will state it now. I met him corner of Oliver street and Milk street, or else he came into my office. We had just started with Mr. Reynolds; that was, I think, in 1883; I do not think he staid there two minutes on that occasion; on the third time I saw him I gave a portion of the conversation.

Being further examined on behalf of the defendants, the witness says: At the conversation in December, 1884, Matthews said he had a civil suit against the Everests and the Vacuum Oil Company—that was the way I understood, or the Vacuum Oil Company—for \$100,000, and if he could once get a judgment in that, he could force the criminal suit, and put the Everests behind the bars; they would do anything before they would allow themselves to be locked up.

The letter received from Mr. Matthews, Mr. Outerbridge did not ask me to show him; I volunteered it.

Being further cross-examined, the witness said: I have been in the oil business for the last six months for Swan & Finch; that is not the Vacuum Oil Company; I am liable to go to the Vacuum Oil Company's, in Boston, two or three times a week some weeks, sometimes once a month, if I am down there; my teamster has a place that stands right there; I go in there, and visit with Mr. Root; I have not talked over this law suit lately; I dare say I have in the last six months; I don't know how many times; three or four times.

The witness MATTHEWS, being called for further cross-examination, testified: I do not recollect having any conversation on the 29th of December, 1885, at an office in Purchase street, in Boston, with Mr. Stearns, at which Mr. Illsley was present; I do not recollect being in Boston at that time; I would not swear that I was not.

Q. Did you say to Mr. Stearns, in the conversation that you had with him on that day and at that place, that you would need to get the Everests behind the bars before the Standard people would buy you out and pay you what you wanted?—A. I never said that to anybody; I do not recollect the conversation nor the visit you speak of; I haven't the slightest recollection of any such conversation that you speak of; I do not think it ever occurred.

Q. Did you say, in the same conversation, that Miller was a great liar?—A. I have no recollection of any such interview or conversation.

The witness STEARNS being recalled for the defendants, further testified: I had an interview with Mr. Matthews, in Boston, on the 29th of December, 1885, at 30 Purchase street; I fix the time by the telegraphic dispatch that I received from Mr. Matthews; Mr. Illsley was present on that occasion; on that occasion Mr. Matthews said to me that he would have to get the Everests behind the bars before he could bring the Standard Company to buy him out and pay him what he wanted; he said, upon that occasion, in substance, that he considered Miller a great liar.

Upon cross-examination, the witness said: I do not know that this morning is the first time I ever told this; I told it to that gentleman (indicating Judge Brundage, of counsel for the defendants); he was going by, and I beckoned to him.

ARTHUR A. ILLSLEY, a witness for the defendants, testified:

I live in Massachusetts; I was present at a conversation between Messrs. Stearns and Matthews, at 30 Purchase street, Boston, the office of the Buffalo Lubricating Oil Company, Limited, at that time, in the last of December, 1885.

Q. State whether, on that occasion, Mr. Matthews said he should have to get the Everests behind the bars before he could bring the Standard people, or the Standard, to buy him out, and pay him what he wanted?—A. Yes, sir; in substance.

Q. Did he, on that same occasion, say that he considered Miller a great liar?—A. Yes, sir; in substance.

Q. Did you learn of the trial of the suit at Buffalo against the Everests?—A. Yes, sir.

Q. Well, was it before that or after that?—A. It was after the trial.

Cross-examined the witness said: I work for the Vacuum Oil Company, in Boston, and have since November, 1886; I got in there after leaving the Buffalo Lubricating Oil Company; Mr. Stearns and Mr. Matthews were present at this conversation; Mr. Benedict was not; I came on from Boston in company with Mr. Stearns and his wife; I am stopping at the Genesee; I put this conversation down in writing, not at the time, nearly two years afterwards; Mr. Root, agent of the Vacuum Oil Company, asked me to do so; I gave it to him; I wrote it in the Vacuum office; Mr. Root was present when I wrote it—nobody else; I did not show it to Stearns; I have talked it over with him a little here; I did on the way from Boston up here; I have not talked it over with him more than two or three times; I told him what I was going to swear to; he did not tell me what he was going to; I never saw Captain Mack in Boston; I knew of his being there.

Q. Where is this paper that you wrote it down in, have you got it in your pocket?—A. No, sir; I have not.

Q. Who has got it?—A. I could not tell you.

Q. When did you last see it?—A. Not since last fall.

Q. In Mr. Moot's office?—A. It was the last I know of it.

Q. You had given it to him some years before that?—A. I gave it to him last fall. I had no conversation with Matthews on that occasion any more than to pass the time of day; I was in the office; I think I was not doing any work. The office is 8 or 10 feet wide and twice as long, or such a matter; I was the shipper—I did not keep the books; I think I was standing by the stove when Mr. Matthews came in; Stearns was waiting for Mr. Matthews; I could not say how long the conversation was; not more than twenty minutes or so; I would not say positively whether I staid throughout; I think they were talking when I went out of the office; I heard a little about the suit that was tried in March; this was not far from 1 o'clock; I think I staid in the office most of the forenoon with Mr. Benedict; in the afternoon I was in the office part of the time and out in the store part of the time; I think there were no sales made that day—I don't remember of any; I do not recollect the subject of any conversation with Mr. Benedict.

Being further examined for the defendants, the witness said: This No. 30 Purchase street was the office then of the Buffalo Lubricating Oil Company; Mr. Stearns came into the office first, to the best of my recollection; Mr. Benedict was not present at the conversation I have spoken of; Mr. Matthews said that he had the Everests and the Standard people where he had been trying to get them for a long while, and that they would pay most any price rather than to be locked up; he said, in substance, also, that Miller was a man who could not be trusted; that, I believe, was all.

Being further cross-examined, the witness said:

Q. You swore here that Matthews said that Miller was a big liar, did you not, in answer to the counsel a minute ago?—A. Yes, sir.

Q. Now, you say that Matthews said that Miller was a man he could not trust?—A. Yes, sir.

Q. And you say those are the same, do you?—A. In substance, yes, sir.

Q. You say those are the same in substance, do you?—A. Yes, to the best of my knowledge.

Q. Did he state why he would like to see them behind the bars?—A. No, sir, I think not; I have given all that I recollect of the conversation.

Q. Now, was not this what he said, that "The Everests and the Standard people have attempted to ruin my business, and to break up the business of the Buffalo Lubricating Oil Company, and that I would like to see these men put behind the bars for it?"—A. I did not hear the first part of that; I did not hear a conversation in which there was such a statement as that.

Q. Then, out of all his conversation with Matthews you have given these two sentences, and that is all that you can remember?—A. I said that I heard him talking about the law suit that was tried in March of that year; I knew the fact that the civil suit had been tried before any criminal suit; I wrote this statement that I have spoken about at Mr. Root's request.

Being further examined on behalf of the defendants the witness said: Upon November, 1886, I had been in the employ of the Buffalo Company since February, 1885; prior to that in the employ of the Vacuum, since 1882.

J. SCOTT WILSON, a witness on behalf of the defendants, testified:

I live in Rochester, and have lived there, off and on, for nearly sixty years; I know Charles B. Matthews; I think I was introduced to him in 1878, in Rochester; I was then engaged in selling oil for myself; he was engaged, as I understood it from him and Mr. Everest, to put down an oil well, or a prospect well, in Wyoming, on the farm that he lives on; I entered the services of the Vacuum Oil Company September 16, 1878, to do their general business, whatever they should require of me; the understanding was that I should be purchasing oil in barrels, crude oils, sell oil, take orders; I was a purchaser and a salesman; I should say that I must have traveled through fifteen or sixteen States, perhaps, selling their oils; I continued to do that down to the 1st of March, 1881; prior to that time I had entered into an agreement with Matthews, but not with Miller, to leave the employ of that company; after I went into this enterprise I continued to live in Rochester; I continued with the Buffalo concern, I think, until about December, 1881; I think it was then that I left. I came up to Buffalo, and located the place for the works, about the 3d of March, 1881; I selected the premises myself first; before that I had acquainted myself with the arrangement and construction of the Rochester works; I was about the works very often when in Rochester while I was selling oil for the Rochester concern; I had acquainted myself with the construction of those works and a portion of the process of operation; I was acquainted with the process of the fire stills, but not of the vacuum stills; they are quite different in the two cases; it was arranged in the first place that there should be two stills constructed for the Buffalo works, both fire stills; while I was there the vacuum still was constructed; I think it got in operation some time in July, but I am not positive; it might have been the 1st of August; it was after the 15th of March; I think it was between the 15th and the 30th that the construction of the works began; between the middle and the last, along the last of March; prior to that I had been to Erie to order the stills; I think that was about the middle of March; I could not say how much of the time from the 3d of March I spent in Buffalo; a portion of it; I was traveling on the road looking after trade for the oil that we were to manufacture; I was here occasionally; I called upon a great many former customers and customers that I had been to see before; I was about the Buffalo concern more in March, perhaps, than any other month; I should say, perhaps, half the time in March; I should say perhaps half the time in March, I started to build that works, and I wanted to see it carried out to my ideas; I could not tell you what proportion of the time in April I was about the Buffalo works; I was there, off and on going from one place to another; of course I spent as much time in Buffalo as I could, because I wanted to watch the things as close as I could; I was there quite frequently, and also clear through up to the time the still had started; about the middle of June; I was in Rochester when the first still started; within a day or two after that I was at the Buffalo works; I went about the works at that time; I was there perhaps during the day, and might have been there two days; I spent the most of my time there; I was around looking after materials for the construction; I can not say how long after the first run they run it afterwards; within the week I should think. In this time that I was there I observed about the still or works no indication of any harm having come to the stills or to the works in any particular. I first heard about the blowing off of the safety-valve in that first run the same day that I came up from Rochester; the second day afterwards, I think it was; there was not then, to my knowledge, any talk about the place of any accident or explosion having taken place; I think my first attention was drawn to any accident or explosion having then occurred, in a complaint.

I think my acquaintance with the processes for the manufacture of oils from crude petroleum dates back to 1862 or 1863, somewhere along there; I first became acquainted with them in Rochester; not at the Vacuum Oil works; I had a place where I made oil myself, and then I afterwards went in with other parties and bought a refinery on the flats right below the falls at Rochester.

I was about the works about the time that Miller left the concern. At the time

that I came back and found Miller was gone, my impression is that the two fire stills were completed ready for running, and had been run; that is my recollection now, one way or another; my impression is that both were; I think the vacuum still set in the place that they intended to have it walled up, or was partially walled, with, I think, a jet pipe running through the still the whole length; that is my impression; they had then to put steam pipe to connect with what they called the super-heater; I was not acquainted with those arrangements myself only what I had seen of them.

After I came back and found that Miller had gone, I did something in regard to supplying his place (after Mr. Frank Beardsley had experimented in trying to start the works) myself, the still—the vacuum still; that experimenting by him continued I could not say how long, until he had made up his mind that he could not complete it; that could not have been more than perhaps ten days; may be not so much; then I went to look after the man that I knew could run their stills; I looked about Rochester; I heard where he was; I was looking for a particular man, a man that I had known that had worked for the Vacuum Oil Company before, running the still; I think his name is Kiley; I could not tell how long I have known him or of him, perhaps eight or ten years; when I first became acquainted with him he was running, as I understood it, the Vacuum Oil Company's still, and had charge of it; I was not then connected with the Vacuum Company; I was then in the oil business; for that eight or ten years I knew him when I met him; I had never had any dealings with him; when I went to look up him, I heard he was down at Charlotte working there in a garden, making gardens, and I sent my son after him, and he went and brought him; I knew something about his competency to direct and operate a vacuum still; that is why I went after him; I was at the Vacuum Company's works while he was at work there; I don't know that I saw him running a still; there is a difference between running a still and having charge of them; I was informed that he was running the stills—had charge of the business.

I then employed him for the Buffalo company; I think it was the latter part of July that he came to Buffalo and went to work; I should think perhaps a month after Miller left; it might have been a little more, it might have been a little less. He undertook to complete the vacuum still; he proceeded to complete it. Shortly afterward (I don't remember the time) it was completed under his supervision. It was then put into operation as soon as it was completed; I so understand it. Kiley then had charge of the vacuum still and Frank Beardsley had supervision of the other stills and the other works about the concern. My impression is that we had men at the works that could run those other stills—that is, fire them and run them to reduce the oil, and I did not think it was very necessary to get anybody up there. As I understood my position in the Buffalo company, I had the management of the oils—the control of them. I do not consider that I was any officer of the corporation; I think I was a trustee. I was not vice-president or secretary or any officer other than trustee. There was not, to my knowledge, any consultation among the officers of that company in regard to finding any one to take the general superintendence of manufacture in Miller's place. I think the thing was talked over among the trustees, and we concluded that Mr. Frank Beardsley was capable of taking charge, having suitable men to fire the stills. My understanding is that he had charge all during the time that I remained with the company. I think that Frank Beardsley was competent to take such superintendence. If I was going to choose between him and Miller I should take him in preference; that was my judgment in regard to it at that time.

I heard complaint from Miller prior to the 3d of June in regard to affairs at the Buffalo works. He told me that Mr. Matthews was trying to work in his friends to learn the business, and he did not propose to learn them how to make oil for them to shove him out.

I can speak as to the product of the vacuum still during the time I was there. As to the success of the vacuum still, I can not speak. I examined the product that came from Kiley's operation, compared it with that made by the Vacuum Oil Company, and I considered it fully as good, every bit of it; I was willing to go into the market with it. The company sold those products of the vacuum still in the market as equal or superior to those of the Vacuum Oil Company, of Rochester. I put them on the market as oils made by the vacuum process, not as the Vacuum company's oil, but the vacuum process; the same stills superintended by the former superintendent of the Vacuum Oil Company. During the time that I was with the company the product of the fire stills was good as a general thing.

At the time Miller left, I think, I remember there was a man in the employment of the Buffalo company by the name of Taylor. I know he ran good oil—satisfied me. I knew what the market wanted, and I knew that that oil would make it. Taylor came from Cleveland; I think I found him in Cleveland and employed him for the Buffalo company. I found him in the employ of Clark & Brothers; he was running the stills. I went up to the works and went around with him. I saw the oils that he had run; he showed me; I could judge from them. In my judgment, the oils were good, and would be satisfactory to the market. During the time that I was there the

concern was doing something in the way of compounding. I could not exactly state the amount of its business, but I did not consider it very extensive; it was not a large proportion. In such establishments that is an ordinary process of manufacture; that is done at the Vacuum oil concern in Rochester; I know it has been done there; I don't know that it is now. The process is putting different oils together and mixing animal oils with it. Animal oils with paraffine oils—lard oils, for instance, with paraffine; tallow, lard oils with what we call cylinder stock, and different ways. There are a great variety of ways of compounding oils. The business that was done while I was there in the way of compounding oils resulted from Miller's absence from the works. Miller had nothing to do, as I understand it, with compounding. There was no other than I at the works who knew anything about the mixing and compounding of oils, except it be Frank Beardsley; he said he had a copy of the Vacuum Oil Company's formula for compounding; if he was competent then, he knew about it. The object in compounding oils is, in some cases, to make it more limpid, and in other cases to make it stand more heat; in other cases to make it have more body to lubricate; in other cases to make it burn better. The object in compounding is to make it better.

Before going to Buffalo the conversations with Miller, Matthews, and myself were after the arrangements had been entered into with Mr. Matthews; those interviews were held at my house several times, and they were held at Mr. Matthews's house; about that time, at my house in Rochester, in the course of some one or more of those interviews, Matthews said to me and Miller like this: That the Vacuum Oil Company or the Standard would never allow us to start to make the same product that they made; they would be more fearful of us than anybody else, because we understood their business; because we understood the Vacuum Oil Company's process of making oil.

Q. Did he say this in substance: "We can go to the customers of the Vacuum Oil Company, and say to them, 'we have the same process and the same apparatus, and the same oils as the Vacuum Oil Company, and we have their old superintendent, Mr. Miller, to manufacture the oils?'"—A. That was the talk over in my house, after I had spoken to Mr. Miller.

Q. Did Matthews say anything to that effect?—A. Yes, sir.

Q. Did he, during those conversations, say to you or in your presence, in substance, that he expected to get from \$100,000 to \$150,000 by being bought out by the Vacuum Oil and Standard people?—A. He said that in substance; yes, sir.

Q. Did he, about the time that Miller left the employ of your company, say to you at the works, or the office of that company, this in substance: "I am glad he is gone."—A. He did, sir.

Q. After this run of oil did you hear anything said about the works about any loss of material from that accident?

To this the district attorney objected as too indefinite.

Mr. BACON. It can not be made any more definite, if the court please, than to ask if he heard anything said about it.

The COURT. He was one of the persons interested there, and should you not confine yourself to facts that were within his knowledge? You can show by him that he examined the product run that day, whether it was burned or otherwise injured.

Mr. BACON. He was not there, as it appears, until a day or two afterwards. I was asking whether he heard anything said about any loss of material about the concern that he was interested in this action.

(The objection was sustained, and the defendants excepted.)

A. I know of a safety-valve blowing open upon one of these stills after Miller left; I think it was in July; no injury resulted from it. I was engaged in business as an oil manufacturer, I can't remember the time, some years at Rochester; I am competent to run the fire stills, and was at that time. The blowing open of a safety-valve upon a still is not, I think, an unusual occurrence; I saw the safety-valve upon this still; there was not to my knowledge anything unusual in the arrangement or adjustment of it; as for the weighting of it I could not say. When I saw that first valve it was weighted down, and I could not tell you how heavy; it might have been weighted 1 pound or 20 or 50, I don't remember as to that.

Upon cross-examination, the witness said: I am now engaged in the oil business in Rochester; I am dealing with the Vacuum Oil Company some little on refined oils, burning oils; my business is making, compounding you might call it in a measure; I reduce some, I compound some, I mix oils; I put certain oils together and make certain varieties and kinds of oil that is used for machinery and steam cylinders.

Q. Do you manufacture oils by the process which is now conducted by the Vacuum Oil Company?—A. Well, we call it manufacture, that is the name it is; compounding oil is called manufacturing oil; under that head I do manufacture; compound into something similar to what the Vacuum company used to do when I was with them; I do not run the still, I run the tank; I do not buy the products of petroleum from the Vacuum Oil Company, only occasionally some paraffine oils; I mix other

oils with that. When I was engaged in the manufacturing of oil, otherwise than compounding, I had stills that sit over arches, and I had what was called petroleum oil stills for the purpose of reducing and separating the different products of petroleum oil. I attended to the practical management of the business partly; I was the only man that knew anything about it. The process of manufacturing which I carried on is different from the vacuum oil stills; it is not a process of manufacturing by the use of acids; it is manufacturing regular, natural, crude oil reduced by the heat from coal, separated. When I first commenced with the Vacuum Oil Company Mr. Everest told me that he wanted I should take the general supervision of the outside business; to buy crude oils, barrels, staves for barrels, and to do anything that he required; I done a good many things; I took orders for oil; I went to see parties to get their orders, I went to different oil-works to see how they made oils. I went to different wells to see what kind of oil the wells were producing; I was paid a salary; I continued to work for them under a salary until March 1, 1881. I could not say as to the day I began to sell oils on the road to customers for the Vacuum, but I think my first business was to go to Philadelphia and attend to some business there; I should think probably I commenced to sell oil in September, 1878, the latter part, or October, continued to the 1st of March, 1881. I did not consider selling oils for the Vacuum my principal business; I sold, I think, in some fifteen or twenty different States; I traveled about a great deal and went to a large number of different places; I took trips whenever I thought best in the commencement; I should say I traveled half the time or more. I had thought of leaving the Vacuum company the latter part of 1880, more particularly about November or December; I don't think I had any conversation with Hiram B. Everest on the subject of my dissatisfaction with my employment; I don't think I ever talked with anybody about my dissatisfaction; I think I told Mr. C. M. Everest, in October or November, that I did not want to travel any more; I had got tired of it and I wanted to go into business for myself; I said I wanted to go into dealing oils; I did not propose then to go into manufacture; I think it must have been in December or January that I first thought of beginning the manufacture of oils, it might have been a month earlier; I don't know that I first spoke to Mr. Matthews with reference to going into the manufacture of oils. So far as I was personally concerned, I did nothing towards starting the Buffalo works until after I had left the employ of the Vacuum, only talking it up. At the time I commenced to render services in preparing the Buffalo Lubricating Oil Works to start, I was not in the employ of the Vacuum Oil Company; prior to March 1, 1881, I had done nothing towards starting the Buffalo Lubricating Oil Works; it was after Mr. Matthews and I had entered into an arrangement that we three agreed to unite together for that purpose; it was somewhere between the 1st of March and the 20th; my first conversation in relation to starting the Buffalo works was along in November, 1880; it was in one of the Vacuum company's offices, between Mr. Matthews and myself; Mr. Matthews was not reluctant to enter into that agreement; he was quite anxious to go in; during those first months of November and December, Matthews and I had several conversations, and I took a northwestern and southwestern trip and got back in February, and we commenced talking the thing up pretty strong after that; to the best of my recollection it must have been somewhere near the middle of February that I came back; it may have been a little earlier; nothing had been agreed upon definitely prior to my return from my southern trip in February, 1881; it was the first days of March that we finally concluded to go ahead; that is the time we started to erect the concern, but we had agreed what we would do before that; we had agreed after my return from the West; I could not tell you just how long after; I think we talked the matter over, and I took a short eastern trip, and when I came back we talked it over again, and then we went to laying out plans; I was gone a number of days on my eastern trip; if I understand it, Mr. Matthews and myself had agreed virtually to come to Buffalo before I took my western trip; the thing had been talked up; he told me what he would do; I think I started the latter part of December; it was a southern, western and northwestern trip; in December, 1880, Matthews and I had agreed to go into partnership; I can not say positively whether an agreement was entered into until after my return; I think it was after my return that we agreed to start; that would be in February, 1881. I thought I knew Mr. Miller, I did not, however; somewhere in March, 1881, I first talked with him with reference to coming to Buffalo; that was after I had been here and looked at the site; I came here alone in the first place to look at it; according to my memorandum, it was March 3 that I did so; shortly after that, the down payment was made on the contract; it may not have been many days; Mr. Matthews came up here and took a contract on the property that I looked at, or, in other words, a refusal; he went out with me and looked at the land; I don't think Miller was with us on that trip, I am not positive; however; my understanding and recollection is that I did not speak to Miller with reference to coming to Buffalo and starting in the manufacture of oil until after I had been here on or about March 3 and examined a site to locate the works; it was in

my mind that Miller's part in the organization of the company was to be to do as I directed; I was to construct the work, not him; I think I had a practical knowledge as to the construction of the stills; Miller was to act jointly with me to carry out my views; I gave the orders for the stills; I was to supervise the construction; if I saw fit to do so, I was to do any and all parts of it—to supervise, control, direct the construction; I was to direct, and did direct; I had the knowledge to construct all that Mr. Matthews and I intended to construct, or Matthews and Miller and I intended to construct.

Q. Did you have the knowledge to construct all the works which the Buffalo Lubricating Oil Company did construct on its grounds?—A. That was not considered at all; did not talk about it; I do not know what there is in the works; I have not seen them since I left there; I know what they constructed before I left; I had the knowledge to construct the works which they did construct while I was a member, or belonging to that company. I did not say Mr. Miller was simply to act under my instructions or directions; he was to do what he could to further the business; I did not care much what he could do; I don't know as I understood in particular what he could do; I did not care so much about that; that was not what I wanted Mr. Miller for; I wanted him, as being a former superintendent of the Vacuum Oil Company, so as to give our oil character; that was what I wanted Miller for; that was the main thing.

Q. It was not his experience as a practical builder, or for his knowledge of the works that you wanted him for?—A. I don't think he was an experienced builder; I concluded from what I saw of him and his movements that he did not understand his business; I did not employ him because of his knowledge of the construction of oil works, or any part of it, not in the start; my first idea was it was simply to give our oils character in the market; my business to sell the oils; I did not hire Miller because of his superior skill in the manufacture of oils; I don't think I considered him at all as a manufacturer of oils; my consideration in the matter was that the simple reason for which Miller was taken into our combination, into our association, was, not for his knowledge of the practical construction of the stills or the works, nor for his competency as a manufacturer of oil, but simply to advertise our oils as being made by a man who had been the former superintendent of the Vacuum Oil Company; I could not say that was my sole consideration; I expected he would be able to go on there at the works or running the stills, tending to them when I was not there; that he would be of some assistance; that his services would of themselves be of some value; but it was not the qualification that you called my attention to that led me to desire to associate him in our company; the controlling thing in my mind was the other consideration, to give our oil character by having him as superintendent, employed in our business; I desired to say to our customers that our oils were made by the former superintendent of the Vacuum.

Miller gave me some reason for dissatisfaction while he was here in Buffalo; I thought he drank too much whisky; I thought he had too many men around him who drank whisky; I thought he was too extravagant in his purchases with the means that he had; I thought he did not push the fire stills as he ought to and let the vacuum still go; he and Mr. Matthews were determined to build a vacuum still; I was opposed to it; I wanted to use the money in the other stills; that was the reason. Mr. Miller had hired a number of those employes here in Buffalo; he brought a gang from Rochester; I said they were what I would naturally call a drunken gang of whisky drinkers; they appeared to be drunk to me; they did not appear to be attending to their business, nor progress with the putting up of the stills; I thought Miller was neglecting his business, tending to drinking whisky more than tending to his business; sitting around in the saloons; I don't think he was delaying the construction only in the way I have described; he bought stuff for the vacuum oil stills which we could have got along without; he bought a great many more materials than we needed for the time being; I don't know whether they have ever been used to the present time; as long as I was there, some of them were not used.

If these stills had been made as promptly as I thought they ought to have been made, they would have been completed about some time in May; according to my idea, somewhere about the 15th or 20th; that was my idea, to have the stills running in May. I concluded that Mr. Miller did not know much about it; in judging that the works could have been completed some time in May, I don't know that I took Miller into consideration; I don't know that I thought about that; I have no recollection of it; I could not tell how many days or weeks of delay was occasioned by reason of the things I have mentioned: according to my estimation, there was at least a delay of fifteen days in the completion of the works.

I commenced in March, 1881, seeking orders for oil for the Buffalo company; I did not make any contracts to deliver; I think I sold oil for the Buffalo works along in June, from the 15th to the latter part, I can't tell exactly; I came on the grounds the first or second day, I think, after the first run of oil; I think I knew of the oil being run on the same day, on the 15th; the result of that run of oil was talked

over; they told me they had spoiled the batch of oil I was waiting for; that is the way it came to be talked over; it was run too low; I had an order that I wanted to fill, that made me so anxious about it; to supply the omission, I bought from the Vacuum Oil Company; I was in the market trading at the same time, buying of them; I had been buying of them from the first of the month up; I had been buying and selling on my own account; I had an order and proposed to turn it in to our company if we could, but they could not furnish the oil in time, so I bought it on my own hook and collected the money myself; Mr. Matthews telegraphed me that the oil would not answer to fill my order; when I got back to Buffalo and went out to the works, I looked at some oil to see whether it was spoiled or not; looked at some black oil which was pointed out to me as the result of the run; that oil was not spoiled for some purposes; I did not use it nor sell it; I don't know what was done with it.

I got acquainted with Frank Beardsley at the Vacuum Oil Company's works somewhere along in 1878, 1879, or 1880; I don't know what year it was; I don't know what his employment there was; I knew he was up to the office there, but what his position was I do not know; he was in the office at the works and around the works, and I think I met him more than any other place in the office; he came to Buffalo after we started in there.

In May, 1881, I was on the road buying or selling oil on my own account; I do not think I looked after any trade, I only wanted to keep up the trade I had; my recollection is I spent most of my time in March, April, and May a good deal of the time in Buffalo, but I might have been on the road in May; I don't doubt it; I think I was on the road in June, July, August, and September; I was not out at the works very much only when I came to Buffalo; I would spend from one day to a week out there; I might say from half day to a week; I was doing some work out there; I was testing oil; I drew oils in the stills; fire-testing; I directed the firemen how to run the oil; I began to test oils in June. Prior to the time we began to manufacture, I went to Erie to see about the construction of the stills. I went to Nelson's in this city to see about the construction of a tank; I went to a railroad company to see about getting a side track; I went to the lumber district to see lumber; I went to Noyes's place to get boats; I went to divers places to get materials to construct that works; I did anything that was necessary that I wanted to. My principal business was not to purchase materials for the construction of the stills, it was to construct the works; that was the understanding from the start, that I should superintend and manage it, and they should be constructed as I directed. I was not to construct the stills; I was to see them put in place. I spent on the grounds of the Buffalo concern, prior to the time we began to manufacture, about as much time as I thought was necessary to give my directions, and see that they were carried out. I should say I spent perhaps half the time there; it may have been one-third or a quarter, and perhaps more; I could say that I spent all the time there that I was not engaged in anything else.

Q. Now, you ran a batch of oil, did you not?—A. Yes, sir; no, sir; hold up, I correct that; I didn't run a batch of oil; I directed the running of a batch of oil, and a man run it; the fireman ran a batch of oil; I directed it, however.

Q. He made a mistake, did he not?—A. I do not know.

Q. Well, the batch of oil was not very good that came out, was it?—A. The batch of oil was just what I had reason to expect.

Q. Did you run more than one batch of oil?—A. I do not know that I ever run a batch of oil only by direction.

Q. Did you direct more than one batch of oil?—A. Yes, sir.

Q. You directed the second batch of oil, did you not?—A. I directed a number of batches of oil. I directed Mr. Taylor how to run oil, and I directed Mr. Porter how to run oil, and Pat. Griffin how to run oil.

Q. Which still are you speaking of?—A. I am speaking of the fire still. I do not claim to understand how to run a vacuum oil still; I do not claim that.

Q. Who had the practical knowledge of how to run the vacuum oil still?—A. Well, sir, Mr. Kiley had.

Q. Mr. Kiley was not with you when you began to run your company?—A. No, sir. The still was not completed, so I do not know who could run it; I do not know that I had decided who should run it. I understood Mr. Kiley is now in State's prison; I have not seen him there.

Q. He was the gentleman that you contemplated intrusting with the running of that still?—A. I think he was full as good as the man that was left there; yes, sir, I had known Kiley, I think, back to 1867 or 1868. Prior to the time that we started in the Buffalo works I did not know that he had been in the workhouse two or three times; I became acquainted with him by seeing him at the Vacuum Oil Company's works; when I left there I could not tell you where he was working; I do not know whether he was then in their employ; I had not seen him there nor heard him talked of; I expected to find him in Rochester; I knew about where he lived; my son found

him; I hired him and came with him to Buffalo. I do not know whether I was a director of the Buffalo company; I know I was a stockholder; my wife was also; I do not remember whether I was a director or not; I know I had something to do about sending to get a license to start up, and as far as the balance is concerned I do not remember about that. I know that the board of directors assembled for the purpose, as I understood it, to form the company, that is, to give each party of the company a position, tell them what their positions were and what they should do, and so on. I attended their meeting of the board of directors, and yet I do not know whether I was a director or not. I did put money, personally, into that company for stock; I was a stockholder; the stock belonged to me.

I do not know when Frank Beardsley began to take charge of the stills; I did not consider he had charge after Miller left; I do not consider there was a man there that could run a still or manage it better than the man that I had to fire—Mr. Taylor—and I considered that he was the man that knew the business; I refer to both fire stills; I do not refer to the vacuum still at all; I do not know that Frank Beardsley ever fired a still; he began to assume the direction, I should think, along in July—the fore part, I should think; I was on the road perhaps half the time; I was out to the works a good deal too; I never saw Beardsley run a still, but I saw him fire-test oils in reducing it; I have seen him take the management and direction and control of the still from the beginning of the running of the batch of oil until its completion; I have seen him do it in the process of reducing, taking the oil into the little house we had there and fire-testing it, putting the thermometer into it to see how much heat it would hold before it would throw off the vapor; that was Frank Beardsley's business and mine; not more his than mine; I directed the running of these oils; he did not do it; there was not a man there who knew what the market required for these oils—how they should be made, what standard they should be to go on the market and meet the trade; they did not know anything about it; even Miller did not know; all he knew was what he had been told; there were parties there that were capable and did run the stills and make good oil; Frank Beardsley drew from those stills, in the process of reducing them, oil for the purpose of fire-testing it to see if we could get a 600 fire-test oil, or whatever fire-test we wanted; Beardsley was competent to do that.

I heard complaints made about the oils that were sold; I think not from a number of different concerns; I don't know that I ever heard any complaint from a customer; I heard complaints from Mr. Matthews; he told me that the customers complained; I do not call to mind any customers but perhaps one; I did not see all the oil that was shipped by the Buffalo concern; I do not think I have ever seen the correspondence of the customers with regard to the quality of oil produced; Matthews did not, to my remembrance, call my attention to the correspondence of customers on more than one occasion; he might have done it.

There was no superintendent of the works, as I understand it, that had anything more to do with it than I had. I had as much of the management as anybody, and more in directing and making the oils. I was the only one to direct making the oils.

Q. Mr. Wilson, you are acquainted with Judge Edward W. Hatch, of Buffalo?—A. Yes, sir.

Q. Do you know about a litigation that was commenced in the Supreme Court by the Buffalo Lubricating Oil Company against Mr. Everest?—A. Yes, sir; I heard of it, and knew of it.

Q. And you were a witness in that case?—A. I was.

Q. That case was tried in March, 1886?—A. I do not remember the date; it was tried in this other end of the building here.

Q. About March, 1885?—A. Well, perhaps.

Q. And you were a witness in that case?—A. Yes, sir.

Q. Before the trial of that case, do you remember of going to the law office of Judge Hatch, on Main street, in the city of Buffalo, and there having a conversation with him with reference to your knowledge of how you come to organize the Buffalo concern, and your connection with it?—A. I have no such recollection; no, sir.

Q. Do you recall the circumstance that there was a stenographer there, and that questions were asked to you, and that you made answers to them, going over substantially all of your connection with the Buffalo concern and its organization, and all your relations with it until the time you left?—A. No, sir; I have no recollection of the kind.

Q. You have no recollection?—A. I do not think I ever done anything of the kind.

Q. You think you did not do anything of the kind?—A. I think I did not; no, sir. I have no recollection of it. If you can bring up anything to see whereby I can refresh my recollection, I certainly might acknowledge it.

Q. Now, in this conversation at the office of Judge Hatch, in response to this question, "Now, go on and state to me the details of how you entered into that business arrangement, what the talk was that you had;" did you make this answer, or this in substance: "A. I had known from previous conversation with Miller that he was

not satisfied where he was. I remember one time, says I, 'Al, there would be a good chance in Buffalo; stocks made would bring good prices.' I knew that he could make just as good stock in Buffalo as he did there, and sell all he could make; I knew that from my experience going over the country, knowing what the people wanted, and who used it?"—A. I have no recollection, but then I did have—

Q. No; just answer that.—A. I say I have no recollection, only I have a recollection of certain things that you have read over, which I could explain.

(Question read by stenographer.)

A. Well, it is partly true, and partly I could not say it is true. My understanding is—

Q. No; will you please mark on that paper what part of the answer you say is true and what part you do not remember. Do you understand that all we want to know is, did you say so?—A. I understand what I did say; I can tell you what I did say.

Q. I am just asking you if you said that. I will ask you this question, in answer to this interrogatory asked of you at that time and place I have stated: "Now, go on and state to me the details of how you entered into that business arrangement, what the talk was that you had;" I understood you to say that you said this in answer: "A. I had known from previous conversation with Miller that he was not satisfied where he was. I remember one time, says I, 'Al, there would be a good chance in Buffalo; stocks made would bring good prices'?"—A. That was part of the conversation, but not all of it.

Q. No; there is more of it. And to the balance of that answer which I read to you, do you remember that you made that answer?—A. If I did, I did not make it correctly; did not make it understandingly.

Q. And do you say now that the balance of that answer is not true?—A. What portion of it?

Q. The balance of the answer which I have last read.—A. In relation to Miller's ability?

Q. Yes.—A. I said that I did not know but Miller was capable of making as good oil as was made by the Vacuum Oil Company. I might have said in substance: "I proposed to Mr. Matthews that we should go to Buffalo and start an oil works there; I afterwards talked with him about Miller, and I went to see him; he was already for it. I told Matthews that Miller wanted to go in. Matthews and myself were going in the first place. I spoke to Matthews, but he did not fall in freely at first. I explained it that he could take charge of the business, construct the works, and run the oil; Matthews had to attend to the outside business, etc., and I travel and make the sales." That statement is substantially true, but not all, I do not think.

Q. And to this question asked of you at the same time and place, "And you and Matthews didn't pretend to know how to construct the building," did you make this answer, or this in substance: "A. That was one reason why I wanted Miller, because I did not feel myself capable to build it?"—A. I did not so understand it, and if I answered it I answered it wrong. I did not understand the question, because I certainly did understand, I did know, how to construct it.

Q. I do not care to have your reason to that question. Did you make that answer?—A. I think I did not; if I did, I did not understand the question.

Q. At the same time and place, was this question asked of you: "Had there been anything said about your leaving before you talked of this company?" and to which did you make this answer, or this in substance: "A. Yes, sir?"—A. I told them before I was going to leave; I had told the Everests I was going to leave three or four months before we talked of that company.

Q. At the same time and place, in speaking of Mr. Miller, was this question asked of you: "Q. How did he neglect it?" meaning the works of the Buffalo Lubricating Oil Company, and to which you made this answer, or this in substance: "By not getting the thing constructed in time, and then after he did get it constructed, by not running the oil right?"—A. I do not know; I would not deny it; I do not know whether I did or not; I might have said so, or I might not.

Q. At the same time and place: "Q. Did he work constantly?" to which you answered, "A. No, sir?"—A. That was true.

Q. "Was there anybody who could go ahead with the construction except Miller?"—A. Not to my knowledge." Did he so ask of you, and did you so answer?—A. I did not include myself in that.

Q. At that time and place, did he ask of you: "Was there anybody who could go ahead with the construction except Miller?" and to that question did you answer, "Not to my knowledge?"—A. The vacuum still?

Q. Just answer that question; yes or no.—A. Yes, in one case, and no in the other.

Q. Can you answer that question; yes or no?—A. I can not answer it correctly without stating.

Q. No, sir; Mr. Wilson, the question is, did you answer so in reference to a question that was put to you at the time and place that I called your attention to? What do you say; did you so answer?—A. I could not say; if I did—

Q. Never mind; I do not care for your "ifs" about this.—A. If I did, it was in relation to the vacuum still.

Q. And at the same time and place, and immediately after the question before, was this question asked of you? "Q. That is, there was no man to say how the thing should be put up and done. Matthews could order the material, but he could not put it together?" to which you answered, "No, sir."—A. I did not include myself, sir.

Q. Was this question asked of you? "Q. How long was it when you first began to notice that Miller was slack in his work?" to which you made this answer, "I think from the start."—A. I might have answered that.

Q. Did you so answer?—A. I do not remember it.

Q. And were these questions, which I will read to you, asked of you, and did you make the following answers to them? "Q. Now, then, when did you undertake to run one batch?" to which you answered, "I do not remember, that is what they say." "Q. Do you recollect how you came out about that?" "A. No, sir; I forgot all about it; they told me I run a batch there and burned it, I do not recollect anything about it. I know that there was two batches spoiled, but if there was some spoiled by me I do not remember it." Were those questions asked of you, and did you so answer them?—A. They might have been; I did not perhaps recollect as well. I do not remember. I might have answered to some questions I did not understand, being a little hard of hearing.

Q. And at the same time and place were the following questions asked of you, and did you make the following answers? "Q. Now, what did you do when you found that Miller was gone?" "A. We thought we was in a bad boat." "Q. A bad boat, how?" "A. It occurred to me about this Kiley; he had run a still for the Lackawanna Company. I thought of him and suggested that perhaps we could find him. When Miller left the works we did not know how we were going to get out of it." "Q. Why?" "A. Because there was no one that could complete the construction." Were those questions asked of you, and did you make those answers?—A. If I did, they wa'n't correct.

Q. Did you?—A. I don't think I would answer such a question in that way, if I understood the question.

Q. In reference to the work done by Mr. Kiley, were these questions asked of you, and did you make these answers? "Q. Then, did you see him at work there?" "A. Yes, sir." "Q. How did he seem to make things go?" "A. He did not make them go as well as Miller did. I don't think the results were as good with the vacuum still."—A. I don't think I made that answer.

"Q. Did you know wherein his construction was at fault?" "A. No, sir." Did you make that answer?—A. I did not pretend to know anything about the vacuum still at all.

Q. At the same time and place was this asked of you? "Q. You are not able to tell?" "A. No, sir; there is a good deal of construction out of sight."—A. In the vacuum still, yes, sir.

Q. Was that asked of you, and did you so answer?—A. In relation to the vacuum still, I did.

Q. No, sir; just that question. Was that question asked of you and did you so answer?—A. I say in relation to the vacuum still, yes, sir; but the others I certainly did not understand.

Q. At the same time and place, were these questions asked of you, and did you make to the questions these answers? "Q. After Miller left this time, and after Kiley came there, were you on the road continually?" to which you answered, "Yes, sir; a good deal of the time." "Q. How often were you at the works?" "A. Not very often." Were those questions asked of you, and did you so answer to them?—A. I certainly don't remember. I would not object to answering them if I did remember; there is no reason I should hesitate at all.

Q. At the same time and place was this asked of you? "Q. At any time, from these works up to the time you were connected with them there, would you get as good results from the oil there as Miller had made at the Vacuum Oil works?" "A. No, sir; I think not. I often told Mr. Matthews that instead of getting fifteen or twenty we ought to get thirty barrels."—A. No, sir; I knew better than that.

Q. "Q. I mean the quality," immediately following the former question. "A. They complained of not being sweet sometimes, it was not heavy gravity enough. For instance, the oil run twenty-six or twenty-seven, was burned more than twenty-five or twenty-five and one-half ought to be," did you?—A. I have no recollection of anything of the kind, sir; it don't seem reasonable to me that I should answer no.

Q. "Q. That was the result of improper manufacturing; it was burned when it should not have been?" "A. Yes, sir."—A. What batch was that?

Q. That was immediately following the other question I just read to you.—A. Was that the first or second batch?

Q. That was speaking generally of the oils manufactured by the company.—A. The only oil that I—

Q. Immediately following that question, was the following asked of you? "Whether that was from carelessness or lack of knowledge, you can not tell?" and to which you answered, "That was from lack of knowledge, not knowing how to apply the steam." Was that question asked of you, and did you make that answer?—A. If the question was asked me what caused the oil—

Q. You can say yes, or no, or you do not remember?—A. Well, I do not remember it just in that way.

Q. Immediately following the last question, was this asked of you? "Q. Do you recollect, during the continuance with the company, whether they had overcome these difficulties up to the time you had left?" and to which you answered, "I do not think they had entirely."—A. I don't know hardly how to answer that question.

Q. You can answer it yes, or no, or you don't remember.—A. Well, I don't remember; I can give you an explanation that you would understand, perhaps.

I believe the Vacuum Oil Company commenced a suit against me in June, 1881, I think it was settled some time in November, 1882; they discontinued it, and paid the costs that were made; they did not pay all I had laid out; I did not get all the costs that I laid out; when I talked of coming to Buffalo, I think I had a conversation with Charles M. Everest, at his office in Rochester, with reference to coming to Buffalo; that was after we had started to Buffalo, I think; I don't recollect that then he said to me this, or this in substance, "I shall do all I can to injure your trade or kill it."

Q. Now, Mr. Wilson, did you consider that there was anything improper in your coming to Buffalo to start the organization of the Buffalo Lubricating Oil Company?

Mr. BACON. That is objected to as wholly immaterial and irrelevant and incompetent.

The COURT. I think I will let him answer.

A. Not as I intended to have started it.

Q. Do you think that there was anything wrong or improper in the starting of the Buffalo Lubricating Oil works as they were started?—A. Yes, in respect to building the vacuum still; I consented to do that under protest; I do not see that I acted in regard to it; Mr. Miller and Mr. Matthews acted against my wishes; I had nothing to do with starting it; did not intend to start the vacuum still; I did not purchase the materials to start it; I purchased a tank for storage; I considered that the starting of the vacuum still was wrong, because I considered that we were infringing, and I considered it was no benefit to us; I wanted the other stills; I wanted nothing to do with that; I considered it infringing on Mr. Everest's patents, and I did not want to be mean enough to try to steal his patents; I know that those patents have since been decreed to be worthless; they were considered good then; I told Matthews and Miller that we did not want any vacuum still; I told them that in my house in Rochester, when we talked of coming to Buffalo; I let Matthews and Miller have their own way about the vacuum still; I could not help myself; what I did in reference to protesting was telling them that I did not want it; I preferred to work the fire still; we could make as good oil with that still as we wanted; we didn't want anything else; the vacuum still was very expensive, and it was infringing on what I considered the Vacuum Oil Company's rights; I don't know as I have now stated all that I did by way of protest; I had a good many talks; this was before the company came to Buffalo; I did more in the way of protesting than simply this conversation; I told Matthews and Miller here in Buffalo, after they started, we didn't want their stills; no use for them; I said a good many times I didn't want the vacuum still; all I could do was to talk about it.

Q. And yet, with your ideas on the subject, you consented to come into the Buffalo Company, and accept whatever benefit the company derived from the use of the vacuum still?—A. I was compelled to do that, sir; I did not do it out of choice; I was compelled to do it to try and save myself. I was, as the saying is, in a boat; I got in a tight place; I got in with parties who did not want to carry out their contracts, that did not do as they agreed to; I did not know before they came to Buffalo that they were going to have the vacuum still; when I knew it was when I saw them preparing to set the still up that I had bought for storage. to make a vacuum still of it, and buying traps, different parts, and putting it together. I knew there was not a vacuum still to be erected if they carried out my wishes. I knew there was not to be a vacuum still in the original talks of coming to Buffalo. I hired Mr. Kiley to run the vacuum still. I don't remember what we were out for the two tanks; this tank might have cost \$200; I don't remember; it was a 2,000-gallon tank; it was to be a forty or fifty barrel tank.

Being further examined on behalf of the defendants the witness said: My explanation of the delay in the completion of the works is that there was a detention in getting the brick-work up. As to the oil which was shown me as having been made in the first run, the oil itself was black, but I have made lubricating oils from oil as

black as that. I speak of the limpid portions of the residuum; they did not show me the liquid portions of the oil taken out; they only showed me the residuum. I have made oils that run railroads and other machinery out of as black residuum as that; I did not regard it as spoiled. In pointing that residuum out to me as having been spoiled, they told me they had spoiled a batch; they did not tell me how. I got a dispatch from Mr. Matthews, saying that they had spoiled the batch of oil that day, and they could not fill my order. I came up the first or second day after that to see; I did not see the distillate that came off. It was either the man that was firing, or one of the Beardsleys, that pointed out the residuum to me. I could not tell you who it was. There was no explanation or statement made to me as to how it got spoiled, only this, that Al. Miller had spent the day, or a portion of it, in a saloon across Elk street. That was mentioned in connection with the spoiling of the oil. There was not much of anything said about the spoiling of the batch at all; there was very little said about it.

The process of fire-testing at these works done by Frank Beardsley, and by myself, was the same process which was covered by the Vacuum Company's fire-test patent, as I understood it. It was not a great while after Kiley there, that the vacuum still was ready for operation. I think it was ready to run in the latter part of July, or the 1st of August. I think in June or July, of 1881, I think it was after Miller left, shortly after receiving a letter from Mr. Matthews, I run a batch of oil for the purpose of finding out what I could do in regard to getting a cold test. It might have been in July or August, after Miller left. The batch was not run in the way in which I intended to have it run, but I got what I wanted to find out; I didn't consider the batch was spoiled then. On the trial in March, 1885, of the action brought by the Buffalo Company against the Everests, I testified as witness on behalf of the Buffalo Lubricating Oil Company.

Being further cross-examined, the witness said: I made fire-tests of the oil for myself for the benefit of the company; I knew the Everests claimed to have a patent on the fire-test process. I saw the limpid portions of the residuum that was left after this first run of oil; there was some portion of the residuum that was not limpid; that portion was not altogether useless; it was good for fuel to burn to run the still with; I do not consider it good for the purpose of manufacturing lubricating oils.

Being further examined on behalf of the defendants, the witness said: I could not say how large the quantity was of the residuum which I found to be useful only as fuel; there could not have been many barrels as I understood it, because there was only six or eight barrels of the whole residuum; there might have been half of that which was available only as fuel; I could not say positively; if it had been a perfectly successful run instead of partly successful, it would have been worth, perhaps, from \$3 or \$4 a barrel for machine oil; in running illuminating oil there is always a residuum that is available only for fuel.

DAVID CUTHBERTSON, a witness on behalf of the defendants, testified:

I am in charge of the United States Signal-Service station in Buffalo, and I have brought with me the records of the observations of that office for the 15th of June, 1881. The nearest hour to meridian of the day that our observations are made is 10.52 a. m., true local time. The observations for that day and hour are: Actual reading of barometer, 29.450, correct to sea-level; barometric measure, 30.154; temperature of the air, 62.7; relative humidity, 55; direction of wind, northwest, steady, 9 miles an hour; clear weather. At this locality the ordinary barometric pressure during the month of June the actual reading of the barometer would be 29.20; that is, the actual reading at this elevation.

Being cross-examined, the witness said: The direction of the wind at 7 a. m. was from northwest, steady, 3 miles; at 2 p. m. it was southwest, steady, 7 miles; the barometric pressure increased generally on that day; rising barometer all day; at 2 o'clock its actual reading was 29.455; that was a rise of .005 since 10.52; this pressure would be very little affected by a distance of 2½ miles from where the figures were taken; it would increase the pressure to take my instruments from one elevation to another; a hundred feet would naturally make the barometer read one-tenth of an inch greater, but if you reduce the elevation you have more pressure on the ground; the barometer would naturally read higher than it does at my elevation; these observations were taken at an elevation of about 72 feet; the velocity of the wind at about 85 feet. At such an elevation, with such a light wind as 3 miles an hour, considerable eddies would naturally occur on the streets, but in the open field, open country, the general direction of the wind corresponds to that in the upper strata; that is, to the elevation of about from half a mile upward.

THOMPSON MCGOWAN, a witness on behalf of the defendants, testified: I live in Cleveland, Ohio, and have since 1877; I am forty-nine years old, and am a manufacturer of petroleum; I am in the employ of the Standard Oil Company and have been since September, 1877; before that I have been a manufacturer of petroleum on

my own account; I began that business in October, 1866, on the Allegheny River at Oleopolis; I was an officer of a stock company in which I owned stock; I was not at that time the manager also of other works; I had no part directly in their actual operation; that continued until 1868; I was then crude producing petroleum at the wells for one year; then in 1869 I became interested in a refinery on Oil Creek at Miller farm; I was superintendent, and that continued until 1876, and from 1870, I believe it was, as part owner; at the end of that time we sold the refinery and I went into the employ of the Acme Oil Company of Titusville; that lasted until September, 1877, when I removed to Cleveland; ever since that time I have been in the employ of the Standard Oil Company as an inspector of their illuminating oils; that brings me daily into relation with the process of manufacture at the works of that company in Cleveland; my duties at Titusville were of the same character as now, but in works of less extent.

I graduated at Princeton College in 1861. I have to some extent given special attention to the scientific subjects connected with the refinement of petroleum and the manufacture of petroleum products; I have also practical acquaintance with those processes during the period of time that I have named. I don't know the exact number of stills in use at the refinery in which I am employed; they are of various sizes; we have no vacuum stills; we use fire and steam stills; so far as my observation has extended of the stills with which I am connected and with other stills, safety-valves are ordinarily attached to them; I think they are attached to all the stills we have in Cleveland; it is the uniform usage to attach safety-valves to the stills; it has always been so since 1869; they have been attached very largely; prior to that, in the first works with which I was connected, we had no safety-valves at all, they were fire stills; there are other outlets to the fire still than that which is offered by the safety-valve; there are outlets provided so that the vapor as it is generated in the still can pass over and be condensed; that is a necessary part of the still; these outlets are never intentionally closed in any manner. There are quite a number of vapors or gases which are evolved from crude petroleum upon the operation of heat; they vary in density as you go down; there are series as you increase the heat; the density becomes greater as the distillation progresses; the first gases utilized in commerce come off from the petroleum at about 125, possibly; I mean by that that the body of the oil is raised to that temperature; in distillation the heat, of course, steadily increases; as it increases it evaporates one after the other of the succeeding hydrocarbons, each in section requiring a higher heat; the heat is applied continuously; as the successive products pass off they all pass through these same vapor-pipes; the name tail-pipe is applied to the end of the vapor-pipe which projects into what is known as the receiving-house. These various products are separated in this receiving-house; they are received there in a vessel possibly containing but one compartment and numerous pipes leading from it, or in a vessel divided into compartments as you pass down through; if you have but the one compartment, by opening a stop-cock on one pipe and closing it on another you can run the product to any storage tank you may desire; as they come over they increase in density as the distillation progresses and the heat rises; the attendant has to divert the product as it comes out in varying density into various receptacles; he does so by the use of a hydrometer.

Q. What is the proper method, when a fire still is first charged, of applying the fire in the fire-box; what degree of fire, if you can state?—A. The object at that time, of course, having a large body of cold liquid in your still, the object is to economize time as much as possible; hence we put under a still as much fire as we can, the purpose being to heat the body of the oil in the still as rapidly as possible and bring it to a vaporizing point as quickly as possible.

Q. In your judgment, upon firing a still of 175 barrels of crude petroleum, with a noon temperature in the atmosphere of about 60 degrees, is there, in your opinion, such a thing as making too hot a fire for the purpose of manufacturing?—A. At first it would be very difficult to obtain a fire hot enough to injure the petroleum; in fact, I can not conceive how it would be possible to do so, your object being to increase the temperature of your oil in the still as rapidly as possible in order to bring it to the point of utilization.

Q. Suppose, now, that under such conditions, in a still fired for the first time, the fire after two hours is carried to a degree of heat sufficient to lift the safety-valve, and out of the safety-valve is seen to issue a cloud of visible vapor resembling the vapor from steam, which floats away upon a breeze of 9 miles to the hour and then to dissipate itself gradually in the air; are you able to state from those conditions what in your opinion the escaping visible vapor is?—A. Under your statement of conditions, I should say that that vapor escaping was a mixture of steam, and in all probability some oil vapor with it.

Q. Supposing that steam had not actually been admitted intentionally to the still as part of the process of manufacture, are you able then to account for the escape of steam from the safety-valve?—A. Yes, I can account for it in this manner: We very frequently, when charging a still, we may pump into that still a crude oil accom-

panied with some water; it is a very common occurrence for us to find quite a percentage of water held in suspension in petroleum; on application of heat the water would begin to precipitate itself and descend to the bottom of the still; the petroleum is of less specific gravity than water; as you continue to heat your petroleum you finally precipitate that water; the density of the weight of the oil above it will permit your heating that water higher than the boiling point of water; I have seen it in actual experiment, under similar conditions, raised to a point higher than the boiling point of water; by careful manipulation I saw it raised once so that the oil above the water—a thermometer with the bulb suspended in the oil marked a temperature of 280 degrees; the boiling point of water is 212; in this experiment the heat was applied from beneath; the water was placed in a vessel, the oil poured on top of it, the heat applied from beneath, and heated cautiously and slowly without disturbing the oil at all, allowed to heat slowly until the oil marked that temperature; the temperature of the water below certainly could not be any less than that of the oil above.

Q. Suppose, then, in the case of the still which has been mentioned, that the fire applied to the still had brought the water precipitated below the oil to the boiling point of 212 degrees; what then occurs?—A. Without doubt in a case of that kind the water would be heated above its boiling point, influenced of course by the weight of the oil above it, to what extent I could not say; it would be heated higher than the boiling of water.

Q. In your opinion, it would probably remain unmoved, agitation not taking place until its temperature was something above the ordinary boiling point?—A. That I would not say; ebullition might occur and disturb it; sudden ebullition might occur, and the water would be immediately converted into steam. If the water under that condition of heat is converted into steam it would undoubtedly rise through the oil; if there was a sufficient quantity of it it would seek exit; if there was no safety-valve upon the still it would pass out, if it could, through the vapor-pipes of the still.

Q. Would there be any case in which it could not find exit through the vapor pipes?—A. The vapor pipes might at that time be carrying out and condensing the vapor that was being generated in the still, the vapor of the oil, and this sudden increase of steam might overtax the capacity of those vapor-pipes. If there were a safety-valve and if the pressure inside the still were sufficient it would open the safety-valve and after relieving the still of the pressure the safety-valve should close. Supposing under the conditions named that the gases generated from petroleum pass off with a cloud of vapor from the still through the safety-valve, there is no way known to me in which that combination of gas and steam vapor can explode in the open air. I have never seen the gases generated from petroleum by heat, such as in the absence of steam might pass out through the safety-valve in the first two hours of the firing. I have examined for the last twenty years, scientifically and practically, the subject of the gases from petroleum to some extent.

Q. Suppose the case of a still charged with crude petroleum, to which fire has been applied through the fire-box for a period of two or three hours, and suppose the absence of any water or steam, either by accidental precipitation from the petroleum, or by the manipulation of the manufacturer turning it into the still, and suppose that the generation of gases has proceeded so actively as itself to open the safety-valve and discharge the gases, what would be visible from the safety-valve?—A. I do not think that you would see anything; you might possibly, if you were so situated as to have a proper or good reflection of light, you might notice something as you will notice on a hot summer's day, but it would not have color, it would not have anything like the substance of a cloud of steam vapor, or of a cloud of atmospheric vapor in the sky; I do not think it could be seen at all except under the special favorable conditions that I spoke of.

Q. Suppose the escape by the application of an unduly hot fire to the still, the sudden escape through the safety-valve of vapors or gases generated too rapidly to pass off entirely through the vapor pipes, is that, or is it not, a purpose for which the safety-valve is provided?—A. The safety-valve is provided for the purpose of relieving the still from any undue expansion of vapors or gases which might be generated in it, whether they are oil vapors or steam, no matter what they may be, the safety-valve is placed there for that purpose.

Q. Suppose the escape of vapors or gases of petroleum under the conditions that I have named to you, and suppose that fire is brought in contact with the gases so escaping, what consequences would result from that application of fire?—A. That would depend upon the condition of gases, how they were commingled with air, and how they were supplied with oxygen. Under certain conditions you might get a flash, and the gases might be inflamed. It is not possible for any of these gases escaping from the still through the safety-valve under such conditions to explode. These conditions are necessary for an explosion to be caused by the petroleum gases or vapors—you must have the gases or vapors commingled with a certain proportion of air, and then have them confined. About equal parts of air and of vapor or gas will

give you, I think, as violent an explosion as you will get. With one part of vapor and thirteen of air you might begin to notice a little bit of a flash; as you increase the proportion of vapor to air you increase its explosive properties until you reach a proportion of about equal parts, possibly a little less vapor than air.

The very lightest gas that comes from crude petroleum, there is but a very little of it, is lighter than air; it is the very first product; there is so little that it is almost imperceptible; from a still of 175 barrels there would be no considerable amount of it; very little; when you reach the vapor, for example, what is known in trade as gasoline, or that known as rigoline, the vapor is heavier than air; escaping into the free atmosphere in a shade temperature of 60 or thereabouts, those gases would naturally fall; they might be carried by the heat of the still to a short distance from it; of course there is an upward current there, but after moving a short distance they would precipitate themselves; they would be dissipated in the atmosphere, and especially if there was any air moving—any wind; I do not think it would be possible for those gases or vapors escaping under those conditions, with a wind of 9 miles the hour blowing, to descend at about the point at which they were ejected; the effect of the wind, and of the heated air rising around the still, I think would be to prevent their fall, or coming in contact with the still fires.

Q. Suppose the case of gases unmixd with steam, emitted from the safety-valve of a petroleum still, is it possible for such gases to be carried by a wind of 9 miles the hour, in the form of a visible cloud like the vapor of steam, or an atmospheric cloud, to the distance of several hundred feet, and there to be lost by dissipation in the atmosphere?—A. They would be lost in being carried that distance; I think they would be entirely dissipated; it would not be possible for them to be carried in the form of a visible cloud.

Q. Have you ever seen the safety-valve of a petroleum still blown open under the operation of fire at the still?—A. I have seen a safety-valve open on a still, yes, sir.

Q. Have you seen it more than once?

Q. Suppose the case of the emission of pure petroleum gases from the safety-valve under the operation of an excessive fire, is there any possibility of ignition from that condition of things?—A. Yes, sir.

Q. Under what circumstances could that ignition take place?—A. If you have a low barometer, the air is still, quiet, the gases would come, coming from the safety-valve, if they are not carried away by the heat of the still, if that is not sufficient to carry away all of them from the still fires, they will naturally descend, and dropping down, may ignite from the still fire.

Q. What consequence then would result?—A. If the current was a continuous one, you might have the flame run back to the point of emission from the still; if that point is an open safety-valve, have the flame run back to it; if that continued open, and had not closed, itself, it would burn around the safety-valve; so long as the pressure from within existed, it would continue to burn there; it would be somewhat analogous to the burning of illuminating gas under pressure from the gas folder at the burner; when the pressure from the interior was relieved by the escape, and the safety-valve settled back into its place, the fire would be extinguished, if the safety-valve didn't leak; that would be like the turning off of the key at a gas-burner; I think there is not, under those conditions, any possibility of the fire passing back through the safety-valve into the still.

Q. Take the case which I have already supposed to you, of the blowing open of a safety-valve upon a petroleum still, fired for the first time after being set in brick, and within a few days after the setting was completed; in two or three hours after the first firing, it being fired as stills ordinarily are, with a usually hot fire, or even a fire somewhat more than usually hot, the appearance above the safety-valve of a considerable cloud, appearing like the vapor of steam, which is carried to the distance of several hundred feet, and there becomes gradually dissipated into the atmosphere and disappears; suppose, also, the meteorological, barometric, and thermometric conditions which have been stated here by the last witness, and what in your judgment was the character of the cloud thus observed?—A. I am of the opinion that it was a mixture of steam, and, from the open safety-valve, some oil vapor; possibly a mixture; undoubtedly there was some.

Q. Suppose, under the conditions of heat that I have stated in the case of a petroleum still of 175 barrels, being carried to a degree of temperature such as to force open the safety-valve, and hold it open for several minutes, until it settled back into its place, how large an amount of crude petroleum could, under that length of time, be carried off and lost in the atmosphere?—A. That would be a very difficult question to answer; in fact it would be impossible to answer it accurately; it would be more a matter of opinion, or conjecture, possibly, but I should not estimate that the vapor passing off during that time, in that way, through the safety-valve, would, when condensed, be more than a barrel; I do not know exactly the market value of a barrel of crude petroleum in June, 1881; possibly in the neighborhood of a dollar; the gases passing off in that way would include gases that would not ordinarily be

made use of as the manufactured product; you are having at that time a mixture of gases, some of which are condensed as they pass through the vapor pipes, others pass from the stand pipes uncondensed; if, at the time mentioned, instead of pure petroleum gases there was an admixture of the vapor of steam sufficient to form the considerable cloud which has been spoken of, that diminishes the amount of the petroleum lost by the accident; such an escape of gases by the operation of heat would not have any effect that I can imagine on the crude material remaining in the still; there would be no other effect from the passing away of the gases from the still than the loss of so much material. The appearance of the residuum left in the still after the firing is completed is usually black; its consistence depends on how you have conducted your distillation, and how far you have continued it in reducing the product left in your still; in the manufacturing of illuminating oils, the residuum left in the still would vary in gravity for 13, 14, 15, by the Baumé hydrometer; that is used and redistilled for the purpose of manufacturing lubricating oils and paraffining waxes; it has a decidedly mercantile value. I know a little about the manufacture of lubricating oil, not much; I have not engaged in the manufacture of lubricating oil, only illuminating oils.

Q. Suppose the case of a fire still of 175 barrels of crude petroleum, to which in the first two or three hours of firing, for a time, greater than ordinary heat has been applied, so as to open the safety-valve and hold it open before it settles in its place for from five minutes to ten or fifteen, could the heat so applied produce any injurious effect upon the residuum remaining after distillation?—A. No, sir; it could not.

Q. At what period in the process could the effect of burning or scorching the residuum take place?—A. As you progress in the distillation you arrive at a temperature which begins to do what is known among oil refiners as cracking, which is a breaking up of the hydro-carbon; at that time you begin to partially carbonize the oil; that is, upon reaching a temperature of possibly 600; it is toward the latter part of the distillation; I speak of the temperature of the oil.

Q. At that time has the reduced bulk of the material in the still anything to do with the danger of scorching or burning?—A. An undue fire at that time would, of course, increase that carbonization, and increase your precipitate of carbonized matter; that is the operation of scorching or burning; the means resorted to to prevent burning or scorching in the last hours of the process is running slowly, carefully, so gauging your fires as to prevent a too rapid distillation; we use steam during a portion of the distillation for the purpose of lifting the vapors out of the stills; the vapors are heavy. In an ordinary apparatus the door of the fire-box and the casing in which the door swings, usually made of iron, is visible; nothing more; the brick-work which incloses the still and fire-box covers the fire frontage, usually held to its place in the brick-work.

Q. Suppose that all, or nearly all, the visible front of the fire-box and the door are reddened by the heat, does that imply an unduly or dangerously hot fire?—A. It implies a hot fire; but I have seen the fire-front or the door, red in the early part, when you are firing to heat the oil rapidly, firing especially with coal. I have seen the safety-valves in use upon the fire stills of the Vacuum Company at Rochester. A valve constructed as that valve is constructed necessarily requires the use of some such substance as plaster of Paris upon the lip of the valve to receive the disk which comes down upon it, and which is the valve, to pack it to make the joint tight; the reason is this, in the safety-valve, as you usually find them, you have ground surfaces that come together that do not require any packing. I found there a safety-valve made of an elbow, an iron elbow, in the rim of which was cut a groove; the top of the valve as it came down had a ring which was intended to go down in that groove and fit as nearly as possible, but it wasn't ground. The object of the plaster of Paris, as I saw them using it there, was to make a joint, so as to prevent the escape of the vapor from the still; if such a valve were used upon the still without plaster of Paris or some similar substance, not having a tight joint, you would have an escape of the vapor from the valve; a constant leakage; providing it was not tight, you would have a constant leakage after distillation began.

Q. Have you had any experience in using or observing the use of valves similarly constructed to this?—A. No, sir; I am acquainted to some extent with the properties of plaster of Paris by experience; such an application of plaster of Paris upon the rim of the opening upon which the valve closes would have but very little effect in preventing the opening of a safety-valve such as that; there is no considerable cohesive power in plaster of Paris applied between two iron surfaces; I have never known it to be used as a cement for soldering iron; the effect upon the joint so made close by plaster of Paris, and the application of such heat as is ordinarily generated within the still to the iron parts between which the plaster of Paris lies, is that the iron expands, the plaster dries; of course the moisture is expelled from it and it dries and becomes hard and brittle; while it is not entirely loosened, for if it was you would have a leak there, yet its adhesion to the iron is not great. The brick-work in which the still and the fire-box are set is usually cracked by the operation of the fires, es-

pecially if they are not fired carefully when the wall is green; I am not able to recall any still in actual use about which the brick setting is not cracked, especially in one that has been in use any time.

Q. Suppose the case of a still charged with the amount of crude oil which I have mentioned to you, a fire started under it, and carried on as fires ordinarily are, for from two to three hours, and that upon the safety-valve opening and blowing off there is also a discharge from the still at the tail pipes, what does that discharge, in connection with those conditions, indicate?—A. You would naturally expect a discharge from the tail pipes; that is the proper outlet for the discharge, and you have the discharge there first; that is the process for which the fire is kindled and the whole operation carried on.

Being cross-examined, the witness said: My position as inspector of illuminating oils involves on my part an examination of the finished oils before they are put on the market, to ascertain whether they will comply with the requirements, what is required by the customers, by the laws of the States where the oils are to be marketed; the different States have different provisions of statute as to the degrees of fire-test that must be applied; I test the oils myself, but not all of them; I have a room in which I test them; to make the tests I heat the oils and the vapor is thrown off; I call it a vapor; I should distinguish a gas from a vapor by elasticity; that is a general broad distinction; I have been a student in chemistry; I studied it at Princeton College twenty-six years ago; so far as petroleum oils are concerned, I have followed it since; in college I devoted myself for two years to the study of chemistry, analytical chemistry; I have done very little original work in analysis; I have not published the result of any of my investigations; I do not pretend to be a pioneer in any branch of chemistry. I do not know whether the Acme Oil Company was controlled by the Standard people. I sold my works on Oil Creek in 1876; I am not proficient in the manufacture of lubricating oils; I never ran a vacuum still; I know nothing about that but the result of a casual examination given it at Rochester last Sunday; I was there possibly three-quarters of an hour or an hour; I went up there to examine this safety-valve; I looked at two safety-valves, on two stills, both of the same pattern; I never saw a safety-valve like it before in my life; I was informed that the elder Everest invented it; I did not understand that Albert A. Miller invented it; my recollection is that the elder Mr. Everest said that he had devised it; I think the bar upon the safety valve, the arm, was not graduated; I did not examine it to ascertain that. I have run stills myself in the manufacture of illuminating oil; in that process the residuum left is what we term tar; the crude petroleum is vaporized; the tar left is not hardened by exposure to the atmosphere, it becomes thick but not hardened; the residuum left in a fire still is afterwards subjected to another distillation in what is known as a tar still; from that we obtain coke, remaining in the still, which is sometimes utilized in the manufacture of carbon points; that is nearly a pure carbon. I have forgotten the exact year of the first time I saw a safety-valve blown open; it was in 1872 or 1873; it was at the Miller farm in Pennsylvania; I have a recollection about it to this date; we were unfortunate enough to get some water in the still and opened the safety-valve; nothing more happened than that; seeing this safety-valve open undoubtedly impressed itself upon my mind.

Q. How far did you go, yourself, away from it when you saw the safety-valve open?—A. It opened and closed so quick I did not have time to get away. I did not try to. The water mixed with the petroleum did not puke the still at that time. On the occasion of which I speak, the water was not in suspension; it came from steam. The other occasion was during those years from 1872 to 1875, both at the Miller farm. The safety-valve opened, and, I think, drove out vapor, but also some of the liquid from the still. That was not a safety-valve similar to the one in Rochester; certainly it was weighted.

What I mean by petroleum containing water in suspension is, there is a certain quantity of water held in intimate mixture with the petroleum, the particles of petroleum allowing the particles of water to be intermixed and held in suspension. The amount of water found in 100 gallons of petroleum would depend on the petroleum; how it has been handled. I have precipitated water from petroleum. The result of the analysis depends on the petroleum; where it is from. I have found as high as from nine-tenths of 1 per cent. to 1 per cent. in it; 1 per cent. in 100 gallons would be 1 gallon. I made this analysis in Cleveland. I did it by taking the petroleum, putting it in a graduated glass holding 100 cubic centimeters, filling the glass half full, and then diluting it with light petroleum, naphtha, so as to dilute the petroleum and reduce it, make it more limpid, change its specific gravity, and allowing the water to be precipitated and then gently heated. Taking a still of this kind and applying heat the first product that arises is known as methane; it is a gas; it will escape at the ordinary atmospheric temperature; it is passing from petroleum almost constantly; it is never condensed; it passes off as a gas; it is highly inflammable, and is explosive under proper conditions. The next is a gas known as ethane. That is also passing from the still at ordinary temperatures; it is very light; it does not con-

dense; it is explosive under proper conditions. The next vapor or gas that passes off, I remember, is propane. That is also a gas; you can condense it by cold and pressure; that passes out into the atmosphere through the stand pipe provided for the exit of such gases; that is explosive under proper conditions, and inflammable; these pass off in combustion. The next vapor or gas is known as buthane. That has a boiling point, if I remember correctly, at zero; below zero you would condense it into a liquid; that is inflammable, and under proper conditions is explosive; it does not condense in the stills we use; it passes off through the stand pipe. The next gas or vapor is known as anylhride, or pentane. My recollection is that that has a boiling point of about 32; it is inflammable, and under proper conditions is explosive when in vapor form.

Q. Does that condense in the still?—A. We do not get it; no, sir; not ordinarily. The next vapor or gas is, in the succeeding series, known as hexane. I was speaking of the paraffine series; they are all inflammable, and explosive under proper conditions. The first vapor or gas that we get as a result, in the still or tail pipe, in the shape of a liquid, has a trade name of gasoline. That is usually the first one. Prior to that there are two products spoken of known as chimagine and rigoline, but they are not obtained in the ordinary method of distillation. Gasoline has a still temperature, when it is coming over, of about 125, my recollection is; that is about the temperature when it starts.

Q. Will gasoline, or the vapors that produce it, pass off under 160 degrees Fahrenheit?—A. Yes, sir. There are works on the subject; I have seen them, but I speak from my own personal experience in that respect; I have no regular laboratory in Cleveland; I have some apparatus, but very little; not a very extensive library; gasoline is itself inflammable; it is explosive when vaporized, and the vapor is under proper conditions; it is used in commerce for various purposes; I think the principal purpose is for street-lamps; it is used for heating purposes, but not to so great an extent as one of the heavier products; a flame coming in contact with gasoline would ignite it; it would burn; or if you had the gasoline vapors and they were in proper conditions it would explode; the color of gasoline vapor is not perceptible; gasoline vapor is not visible; I do not think it is visible while it is condensing; possibly just before it reaches the liquid form it might be visible, but I doubt that.

Q. Now, I want to know what, in your opinion, you find when examining the pipes of a still running over into the condenser, at the joints, sometimes, when they are not perfectly tight, you see passing off a bluish vapor, looks something, a little bit, like steam, but lighter, and a bluish tinge—I was down here at the works the other day and noticed that—what was it that I saw there?—A. The gasoline was rapidly condensing, and in all probability you noticed some air moisture; some of the condensed moisture of the air.

Q. You have seen it, have you not, in the stills that you have been connected with, passing off from loose joints?—A. I have seen escapes from loose joints.

Q. And it looks light color, does it not, as you see it?—A. That depends on circumstances; it depends on what is coming from the still; it does not depend on the barometric pressure; it depends on what product the still is evaporating at the time.

Q. Now, the still is running—at the tail the still is running kerosene; up on the pipes, at the loose joints, is passing off minutely something that looks like steam, only lighter in appearance, and has a bluish tinge; it is running in the morning when the fire has only been applied a short time, say 11 o'clock, the fire being applied at 7 or 8, a slow fire, and they are running kerosene at the tail; now, what is that we see passing off from the pipes at the loose joints?—A. Very light products were discharging from the joints at a time I wished to ascertain at what stage the distillation was.

Q. I don't know; they are running kerosene oil.—A. Kerosene is a generic term usually applied to the burning oil which is left.

Q. Well, what I understood when I was at the works trying to get a little practical knowledge down there, that at the tail it was found they were having kerosene illuminating oil?—A. They were then running heavy vapors.

Q. Now, what was that vapor or gas that was passing minutely, as I say, from certain portions of the pipes that were not hermetically sealed?—A. If they had reached the stage of cracking, and decomposition was taking place in the stills, you would see then oozing from these joints, just in the shape you mention, an oil vapor; that would be inflammable, and, under proper conditions, explosive; by proper conditions I mean the vapor must be mingled with air, and to explode must be confined. We get also from the distillation a product known as naphtha; it is a mixture of the hydrocarbons at a certain specific gravity; it is inflammable, and under certain conditions its vapors are explosive. There is a difference in the specific gravity between gasoline and naphtha, arising from the different hydrocarbons which enter into each of the two. Gasoline is a mixture of some of the hydrocarbons; undoubtedly they all contain carbon. The percentage of carbon in gasoline depends upon which of the hydrocarbons have entered into it. Hexane is composed of six parts of carbon and fourteen of hydrogen; the next, seven parts of carbon and sixteen of hydrogen; the

next has eight parts of carbon and eighteen of hydrogen. They follow a general law. I think there is in gasoline no other substance than carbon and hydrogen; at least if there is, it is so slight that it is not appreciable.

Oxygen gas is a supporter of combustion; pure hydrogen, I think, is not explosive under proper conditions; I would not testify that it was an explosive under any condition; naphtha is composed of carbon and hydrogen, the same as gasoline, but in different proportions; the more volatile the substance, the more explosive it is; gasoline is more easily exploded than naphtha; naphtha passes from the still at about 220 or 220.

The next product we get from the still we designate as heavy naphtha. They divide naphtha into two classes, light and heavy. Benzine is simply another name for naphtha; then you enter into the field of illuminating oils; you are getting into kerosene; there are kerosenes which will bear different degrees of heat before exploding. The reason that sometimes, in the early days, in lighting a kerosene lamp it would burst and throw the oil all over, is that it contained a larger portion of the lighter hydrocarbons. I should call that an explosion when the lamp was blown to pieces. I have never seen the fire-box of those stills.

Q. Suppose you should ascertain that a fire-box coming up on to the front part of the still was nearly six feet square, instead of just a door, and the entire front of it was of a cherry red at the time in question, what would you then say about the character of the heat applied?—A. You would have a very hot fire, sir. Escaping vapors from a still, coming in contact with the atmosphere, condense. Steam is visible; what we usually term steam is visible; in the form that we always see it, it is visible; steam is defined to be the vapor heated to a boiling point; it can become a gas. What we see coming from the mouth of a teakettle when water has been put in and a fire applied, a sort of a white mist, that is vapor of water; I should call it steam; in that form I have seen steam; it is steam in the gaseous state; steam just at the point of its maximum density. My definition of steam is, it is the vapor of water heated to a temperature of 212; I have seen a definition of steam that did not say it was invisible; I think that you will find it in Worcester's Dictionary; that is for some purposes a scientific work; I occasionally go to the dictionary in examining a scientific question, and get from that the definition as given by some scientists. Worcester gives a definition that steam is visible under those conditions; at its maximum density as a gas it becomes visible; in its gaseous state it is not. I do not know whether there was any water in this still or not on this occasion; there would be no reason to put any water in; there would be every reason to keep it out. This water in suspension, upon heating the contents of the still, is precipitated because it has greater specific gravity than the oil; by heating, the particles of the oil are rendered more mobile; the oil becomes more fluid so that the water can descend; you break up the intimate mixture existing between the particles of the water and the oil; in time it is all precipitated; the moment you begin to heat it it begins to precipitate itself, not the moment you begin to start your fire; the moment the oil becomes warm or changes its temperature, I judge the precipitation begins, the moment you begin to warm the oil; in time it would be all precipitated, and then it is located at the bottom of the still and the oil is upon the top; the water passes off before all the oil has; usually after the lighter products have been discharged from the still and the oil has reached a temperature that will vaporize the water, in the neighborhood of 225 degrees, along there, the still does then what the still men term, in their language, "lay down;" in other words, the fire is checked and the water is boiled from the oil under a slow fire.

Q. Here is your still running with as hot a fire as could be applied right through; about how long, under those circumstances, would the water remain in the still?—A. It would require about two hours; from two to two and a half hours; in that neighborhood; with a hot fire kept up all the time, what is known as puking the still is a very frequent result. If there were water there that would be the natural result, and very frequently occurs.

Q. Take a still of this kind, applying a very hot fire within two hours and a half or three hours, a continuously hot, excessively hot fire, so that a safety-valve of the kind that you saw at the Vacuum works, in Rochester, weighted down with a weight of 20 or 25 pounds, the safety-valve proper being embedded in plaster of Paris, has blown off, do you mean to say that the escaping gases there are not inflammable?—A. The pure gases would be inflammable. I should expect petroleum gases were coming out about that time, and those gases, in my opinion, would be inflammable, provided nothing else was coming with them; if the vapor of water was coming with them they would not be inflammable; if there were water in the still, as I understand it, they would not be inflammable. Blowing off at the safety-valve, you might and you might not have your safety-valve puked at that point; that would depend on the quantity of water. I would be expecting some kind of gases to come out at the safety-valve if it were blown off, and they might be explosive. If it happened to be a still day, whether the gases would settle around in the vicinity of the still would

depend also somewhat on the humidity of the atmosphere; to have the gases settle around the still a large amount of humidity in the atmosphere would be required; in a damp day you would expect them to settle close to the still.

Q. Having eliminated from your mind the idea that there is any water in the still, and that, under the conditions which I have mentioned, this gas is blowing off at the safety-valve, and that the humidity of the atmosphere is such that it will permit it to settle upon the ground, and that gas coming in contact with the fire of the still, what, you may tell us, would you expect would happen?—A. If the oil vapor was coming in sufficient quantity and passing down in a continuous current, as you have explained, coming in contact with the flame, that continuous current being maintained the fire naturally would run back on that until it reached the safety-valve, where the vapors coming from the safety-valve would continue burning.

Q. Might you not have an explosion?—A. No, sir; not there; not so long as the vapor continued to come from the still.

Q. Suppose it was quiet and it settled there in quantities on the ground—you know the size of the pipe?—A. Yes, sir; you would have a large flash and consume those vapors; if a person was in the vicinity where the vapors are surrounding him he would burn. Ordinary illuminating gas is a hydro-carbon similar to methane; it is in some way similar to some of the vapors that are thrown off from the still; by allowing illuminating gas to be contained in a room and applying fire to it it will ignite; you will have an explosion.

Q. I ask you if you think it would be a safe thing to fill a still with 175 barrels of kerosene, put under it an extremely hot fire, so that the front portion of the still is a cherry red, and a weighted safety-valve is blown off; would you consider that a safe thing to do?—A. I would not. I did not open the safety-valves at Rochester; they were not running, but I did not open either of them; the stills were warm, but not running. Plaster of Paris, when it has become hardened, has very little adhesive properties; my last experience in that matter I have had within the last six weeks or two months; to take plaster of Paris and place it upon the surface of the top of the safety-valve or in the creases, shutting it down so it becomes hardened, would perhaps make it in a slight degree more difficult to open the valve; I could not tell how many more pounds it would take; I have no experience in judging of that.

Q. If the gases, under the conditions I have mentioned, or vapors—just look at the map—this tail-house was within 4 or 5 feet of the condenser, and within 10 feet of the safety-valve—if these gases had come into the tail-house where they were running the kerosene, and they ignited, what would the result have been, if you can tell, igniting the kerosene or naphtha or benzine?—A. It would not become ignited there unless the gases were not in mixture with air in large enough proportion to give you a flame; it depends on that condition also.

Q. See if this might not have happened: Take it under the conditions I have mentioned, the gases had settled down around the condenser so that it entered the tail-house, entered the still-house and became ignited, might it not have fired the gases in the tail-house?—A. If those gases became ignited for any purpose.

Q. I say, might it not, if it settled down around there, the tail-house being within a few feet of the fire in the still, might it not have ignited the gases of the tail-house?—A. Your question there involves so many conditions. What is the distance from the still to that receiving-house?

Q. I do not care anything about that, sir. I ask you this: Suppose these gases had settled down around the condenser so that it permeated the still-house and also the tail-house, would it have been likely to ignite the gases in the tail-house, having been lighted from the still fire?—A. You may have the still fire igniting; would the fire run from the still-house to the tail-house?

Q. Yes; might that thing happen?—A. If you had a sufficient quantity of vapor there.

Q. We are supposing that we have.—A. On that supposition, yes, sir.

Q. Suppose you have the fire in the tail-house from your gases, and they are running benzine, and the fire from the vapor comes in contact with your benzine, what would you expect then?—A. The benzine would ignite.

Q. Would it explode?—A. No; I think not. Benzine in the form of vapor is explosive. If it came in contact with the benzine in the form that we find it condensed, liquid, it would burn. Supposing the kerosene was running at a low grade, in all probability that would burn, too. I do not think it would explode. We test oils to determine their vaporizing points. We want to determine that so as to see whether they comply with State statutes. The statutes declare that we shall not sell an oil in a state that will vaporize below a given temperature. The statute in New York requires that we should not sell an oil within the State which will vaporize at a temperature less than 125 degrees Fahrenheit, as determined by an instrument known as Elliott's test-cup. The adhesiveness of plaster of Paris depends somewhat upon the surface or surfaces to which it is applied.

Q. Are any of the vapors or gases evolved from the distillation of petroleum visi-

ble?—A. Yes. I don't know the amount of resistance necessary to separate two surfaces of iron put together as this safety-valve was.

Being further examined on behalf of the defendants, witness said:

The stand-pipe from the still is a pipe projecting in the air from the vapor-pipes as they come through the condenser to the receiving-house; they place upon that pipe, in the shape of an elbow—they call it a siphon—the purpose being to prevent the flow of gas as far as possible, from finding an exit into the receiving-house; before coming to that siphon a T is placed into that pipe, into which is screwed a stand-pipe, projecting in the air; through that stand-pipe the waste gases are allowed to escape. In the early part of the distillation, and at the close of it, those gases you will find escaping into the air. The size of such a pipe depends upon the size of the condensing-pipe at that point. In the case of a 175-barrel still the condensing-pipe at that point would be about 2 inches, possibly reduced to an inch and a half; that stands constantly open. These inflammable and explosive gases of which I speak are, during the early part of the process, constantly escaping into the free air from that pipe; that is its purpose, to allow those gases to escape. That stand-pipe is usually carried into the air a few feet above the roof of the receiving-house. The conditions to which I referred upon my cross-examination as proper to produce an explosion are, you must have a proper mixture of the gas or vapor with air, and then have the mixture confined; such an explosion is not possible in the open air.

Q. You have been asked in regard to the explosive qualities of ordinary illuminating gas. Suppose a leak from the bursting of a gas-main or the breaking of a street lamp passed into the free atmosphere, is an explosion of the illuminating gas freely escaping under such conditions possible?—A. Not an explosion, sir; you would have an ignition of it, and a continued combustion.

Q. A question has been put to you, based upon the hypothesis of an emission of inflammable gases from petroleum from the safety-valve of a still, reaching, in quantities sufficient for ignition, both the still-house and the tail-house; I ask you to suppose that hypothesis, with the further condition that the still-house and the tail-house are from 80 to 100 feet apart, is it a supposable case, within your experience and knowledge, that during an escape of from five to ten minutes from the safety-valve of a still of even absolutely pure petroleum gases or vapors, and sufficient quantity should settle both about the still-house and tail-house at that distance from each other to produce the result in regard to which you have testified?—A. No, sir; I do not believe that it would be possible for you in that length of time to have generated in the still and poured forth from the safety-valve a sufficient quantity of gas to fill that space and bring you into the conditions possible for a flame to run back from the fire to cover that space of ground; the volume would be too great.

Q. I suppose there is a good deal of supposition about this, is there not?—A. That depends upon the conditions.

WILLIAM H. PATTERSON, a witness on behalf of the defendants, testified: I live in Rochester, and am in the employ of the Vacuum Oil Company as superintendent of their works, of all their stills, and of their general operations; I have been about three years; I have been in their employ since 1875; before I became superintendent I had charge of the manufacturing of the oil for three or four years; before that I was employed as still man under Mr. Miller for three or four years, and before that as fireman; I have brought with me and exhibit to the jury a safety-valve from the works of the Vacuum Oil Company; this is of the character of those that were in use at the time Miller left the works of the company; the escaping gases pass into the valve, and through it here at the bottom; there is a groove around the lip of the elbow into which a flange on the valve sets; the surfaces are not ground; valves of that character are still in use upon the Vacuum Company's stills; at the time Miller was running the stills, and at the time he left we never used anything for packing the joint between the valve itself and the surface upon which it closes but water-lime or plaster of Paris; it was mixed up into a stiff dough-like plaster, and applied while it was yet soft, and sealed and weighed; the purpose of that application was to make a joint to keep the vapors from leaking through; that usage still prevails at the Vacuum Oil works; in case of the valve lifting by the expansion of gases within the still the valve separates, raises from the plaster of paris which has been placed in the joint; portions of the plaster of Paris will remain upon the groove below, or upon the flange above, or upon both; other portions will drop off; it breaks in parts; when by the reduction of heat or the relief of the interior of the still by the escape the valve settles back into its place, it is necessary to shut down the still and wait until the pressure is entirely gone, and repack. The repacking in that case is done just the same as the first operation; it might be possible to use such a valve as that without weighting it; the valve might be of some use without weights upon it; it certainly would be until there is a little pressure in the pipes, but it would not render very much service if used without being weighted. I don't think that it would be practicable to carry on the process of distillation with the valve merely held by

its own weight and the weight of the bar resting upon it and the cohesion of the plaster of Paris; it makes a great deal of trouble to have the valve open up a leak, there being no way to pack it without stopping the still, and for that reason I don't think it would be practicable or desirable to do that. The weight on the valve is ordinarily about 16 pounds; it is applied right on the end of the bar. I remember the time when Miller left the Vacuum works; he was around the works more or less shortly after he left the employ of the company; I had one or more conversations with him at that time around the works. At that time he said to me that the Standard and Vacuum companies would give the Buffalo people almost any amount of money rather than let them build; he asked me at that time to leave that company and go to Buffalo; upon my declining to go, he said to me this, or this in substance: "By God, I will make it just as hot for you as I can; I will take Gable and every other good man on the place, and then see how you can make it go."

Upon cross-examination, the witness said: I did not write down this conversation, neither did any one else for me. This was in the early spring of 1881; I have had occasion to recall this conversation several times since that; I stated the substance of it to Mr. Outerbridge two or three years ago; he reduced it to writing in his office; I have never seen it since; I have had it read over to me recently by Mr. Outerbridge at his room at the Genesee; I am stopping at the Broezel; I was up at the Genesee night before last, in his room, and he took out the paper and read it over to me there; there were two or three others in the room besides Mr. Outerbridge and me; Mr. Gable was there, Mr. C. M. Everest, Mr. Beach; he is secretary down there at Rochester; I was not there to exceed ten minutes; I don't know what the others were doing there, I simply know what I was doing myself; I told this conversation with Miller to a number of different persons before I told it to Mr. Outerbridge; I can not tell you the first one; I have talked with a great many persons, I presume with all the men in the works that were there at that time; there were about fifty or sixty; I have talked with all of them about it, mostly; I have talked with Mr. Bristow; with most all those that were there in the neighborhood that were familiar with the circumstances at that time; with Mr. Kavanagh, a man that lives there in the neighborhood, soon after Mr. Miller left; he is there in Rochester; that was in 1882 or 1883; I have talked with the King boys, relatives of mine and also of Miller's. I was convicted of a crime when I was a young boy; was in the house of refuge a year and a half; I have never been convicted since only in Libby Prison; I was in the Army. This safety-valve was in use somewhere in 1880, and it has been used since. Those stills were never run without a weight on the safety-valve, that I know of; at that time we had different-sized weights; we don't now. In packing a valve we don't generally use quicklime or plaster of Paris, or mix them together.

Being further examined on behalf of the defendants, the witness said: I am past forty-four years old; I was in Libby Prison, Richmond, Va., as a prisoner of war in the United States service.

AUGUST GABLE, a witness on behalf of the defendants, testified: I am twenty-seven years old, and have lived in Rochester all my life; I have been in the employ of the Vacuum Oil Company, I think, thirteen or fourteen years; I am now vacuum still man; at the time Miller left the works I was helping Mr. Patterson, under Mr. Miller, as still man; I partly ran a still. Within two or three weeks after Miller left that company I had conversations with him around the works; he then asked me if I would not leave the employ of the Vacuum Company and go to Buffalo.

The witness MATTHEWS, being recalled for further cross-examination, said: I think that I called to see Mr. W. E. Cotter, at his house in Philadelphia, somewhere about the second week in May, 1882; it might have been a few months before that; I did not at that time inform him that I was expecting the Standard people to buy our works.

Q. Did you, in answer to a question by him, whom you were making your deal with, answer this, or this in substance, "With Mr. Brewster, or Mr. Brewster and others?"—A. I didn't have any talk with him about any deal; I talked with him about some patents; I never heard any such conversation, or any such question; I didn't so answer.

WILLIAM E. COTTER, a witness on behalf of the defendants, testified:

I live in Philadelphia, and have about eight or nine years; before that I lived at Freedom, Beaver County, Pa.; I am an oil manufacturer at present, and for a few months past in Philadelphia, before that at Freedom; I have been engaged in that business about nineteen years; for the present I am interested in a work with others; at Freedom I was running my own works most of time, while I was there; the later years in which I was running it it was my own; I practically operated the work myself; my specialty has been lubricating oils. In the course of that manufacture

other oils are necessarily produced; during all of that time I have need fire-stills; I have been acquainted with the methods used for the manufacture of oils in other establishments than my own; fire-stills are run for the manufacture of oil sometimes without safety-valves; I have so operated stills in my own manufacture. During all of the time in which I have been a refiner I have had one or more stills running without safety-valves; at the present time I am running one without any safety-valve.

I have known of vapor passing off from the still through the safety-valve into the air, coming down into the fire-box, and there igniting, on two or three occasions; on these occasions I was manufacturing lubricating and burning oil, both at the same time; at the present time I could not say in what stage the distillation was at the time this occurred; it is one that may occur at any time; the result of that occurrence was simply a flash back to the safety-valve, and there burning until it was either smothered out by putting something against it, or disconnecting the flame and the supply that fed the flame; that was not an operation of any difficulty or danger at all.

I have known of a fire-still being operated with a leak in the still above the fire-box; the result was it has simply burned there; the flame has gone no further than the surface of the still, where it was fed by the petroleum that leaked from it, or the vapor, if it was above the line of the petroleum inside, and fed it; I have known that to continue during the entire distillation; upon drawing the fire we would usually take a hose and squirt water on it to put it out.

Q. In operating a fire-still without a safety-valve in the manufacture of lubricating oil in what way is the still relieved of the pressure when the application of heat becomes excessive?—A. In that case it would only have its vent through the vapor-pipe leading through the condenser out through the tail-pipe; it has always been the case that I have found that to be sufficient in the case of an unduly hot fire.

Q. Suppose in the earliest three hours of the application of fire to a charge of 175 barrels of crude, the fire having been sufficient to raise the safety-valve of the still, and the safety-valve blowing off, and the still flowing at the tail-pipe, are you able from those conditions to form an opinion as to what is going on in the still?—A. Yes, sir; I should consider that there was considerable of an eruption in the still going on in the form of boiling water; that is usually the cause of that in distillation; we call it a rumbling; all crude petroleum that I have ever used has had a portion of water in it; the little globules of oil will hold it in suspension; in the ordinary process of distillation I have seen indications of the presence of water by its expulsion in the form of steam; the presence of water in suspension in the petroleum causes a tendency to foam, or to boil over through the vapor-pipes; in the manufacture of lubricating oil from crude petroleum the residuum can not be injured in the early part of distillation by excessive fire; such injury can be caused to the residuum only when the residual product has been condensed down into a smaller body, and when the heat has more action on it by the lessening of the quantity in the still, and by the increasing heat that will surround the still from the longer use of fuel under it.

In the making of lubricating oils the percentage of residual product would vary from 15 to perhaps 22 per cent., according to the kind of oil you were aiming to make; that is the proportionate bulk to which the fire is applied as compared with the original charge of the still. To prevent the scorching of the residuum in the latter stage of distillation it is usually treated with steam, injecting a small quantity of raw steam into the mass.

I have seen the door and front of the fire-box at a fire-still heated to a red color in the course of the distillation. That is a very common occurrence; it is seldom that you run off a still without it.

I know Charles B. Matthews; I first made his acquaintance in 1877 to 1879, somewhere in that time. Sometime shortly before the second week in May, 1882, he called to see me at my house in Philadelphia. In the course of the conversation with me on that occasion he informed me, in substance, that he expected the Standard people would buy out his works. In answer to the question from me whom he was making his deal with, he answered in substance that he was making it with Mr. Brewster, or Mr. Brewster and others.

Between the 1st of December, 1884, and the first or second week in May, 1885, I saw him again at my house in Philadelphia. On that occasion he said to me this, or this in substance: "This thing of building refineries and expecting the Standard to buy them out is a poor investment; at least it seems so to you and me." To that I answered in substance, "The Standard's day for buying out refineries is past." He replied to that in substance, "I intend they shall buy me out or I shall make it very warm for them."

I saw him again at my house in Philadelphia at a time between this last occurrence and the first one. It is impossible for me to locate nearer the date of it. At that time he asked me to aid him in the Buffalo Company's litigations against the Everests and the Standard, saying that if I would I could make a good thing out of it, or that in substance.

Upon cross-examination, the witness said: I now live on Mount Vernon street, Philadelphia; my refinery is at Chester; it is the Cotter Oil Works; I attend to the management of the business; it is a limited company; we don't issue stock; I have an interest in it, and two other persons only; I am sorry to say that I am not known as one of the Standard Oil manufacturers; I don't know that I should say that I am antagonistic to the Standard Oil Company; I have always been a refiner; I was at Philadelphia up to somewhere near 1880; my works did not then burn down; I sold them out; I drew a salary after I sold out; I received a salary of \$3,000 a year after I sold out, my duty being that of looking after the same works that I had formerly had charge of, to manage in my own name, and looking after other business in the way of selling and handling oils.

Some time previous to 1879 my works were burned down; they took fire by the night-man carrying a lantern into the receiving-house, or at least to the door, and setting down there; what we call the tail-house; it was a closed room.

Q. And these gases were coming off from the oil?—A. Coming into that room. We had not taken the precaution to carry them up to the roof. These gases took fire and burned the receiving-house. A man got burned up with it. The receiving-house was right in connection with a group of buildings all adjoining together. Nothing else was burned.

Q. You turned the hose on, or something?—A. No, sir; they did not in this case, I guess.

Q. Did you have an explanation?—A. I presume there was.

Q. It was such a trivial matter you do not recollect it?—A. Well, I was not there at the time.

Q. Did you hear about it?—A. Yes, sir; I only knew in my mind remained the fact of the fire. I have had three fires; the first one was several years previous to that, at the same place; that took fire very much in the same way; it was in this receiving-room, which was a close room with a box set in the wall of the room itself, with a closed door on the inside facing into the receiving-room, and within six feet of where the oils and vapor came out, with a door on the outside to put in and out the lamp; this glass got broken while the lamp was in there burning at night; the glass that is on the inside; it left no protection from the open lamp in the room; the vapors got hold of the flame and we had an explosion; it burned that room out.

The next fire was the winter after that, at Freedom; the man was in the habit of going up to the top of the crude-oil tank to lower a pipe down in the oil, when he went to fill the still; he had a swinging pipe, and we suppose he thoughtlessly did it; he carried a lantern up with him to the top, and laid it there while he lifted the man-plate off from the top of the tank to lower the rope, and the gases coming out of the tank, the vapors coming off from the crude oil of their own accord, came in contact with the flame, and we had a conflagration.

Q. And yet you do not think there is any danger of carrying a lamp around where these vapors are coming off, do you?—A. I should not carry one on top of an oil tank with the man-plate off; it depends altogether where the vapors are; if you would give me my own selection of the quantity of vapor, I would carry a lamp around among these vapors right there in front of you; I should think I ought to know pretty much how much vapor there was there; I am not anxious to go down to the Buffalo works and have them run some vapor on a quiet day on the ground and let me stand in the middle of it and touch it off.

Q. You were sued by the Vacuum Oil Company, were you not?—A. I was.

Q. Upon the Ewing patent?—A. Yes, sir.

Q. And after they commenced that lawsuit they bought you out, did they not?—A. They did not.

Q. To whom did you sell out?—A. To John D. Archbold, after I had been sued on the Ewing patent, a good long while afterwards.

Q. How long after you sold out to John D. Archbold did this action continue? How many hearings did you have?—A. Until I secured an agreement from Mr. Everest that if his patent suit against me terminated in his favor, that he should not claim from me any back royalty on any use he might find I had made of his patent.

Q. Did you not understand that your interest in the lawsuit had been merged practically in the complainant's interest in the action against you?—A. No, sir; I did not; neither did I understand that any decree obtained in that litigation would be collusive; they never got a decree against me, and the case was abandoned.

I stated that I have seen stills used in the manufacture of lubricating oils without the safety-valve; we did not have what is known as the pyrometer attached; I don't have anything to indicate the amount of heat; I run stills without anything to determine the heat, or any safety-valves; I use ordinary precautions about my fires. At the time I saw the vapors ignite and following up to the vent, where it burned, I was standing within a few feet of the flash; I could see the flash; I did not move when I saw it.

In the manufacture of lubricating oils it is not well to continue an extremely hot

fire until you have got down to your tar; the time is usually lessened some; we are more careful of it then; the idea is to reduce the residuum to a certain consistence; if you carry it on further, the residuum is not worthless for the manufacture of oil, but still it is injured; if you go beyond a proper consistence, you are likely to injure your residuum.

All three conversations with Matthews, that I have spoken of, were at my house on Mount Vernon street, Philadelphia; the first was in the spring of 1882, before the second week of May; no one but myself and Mr. Matthews were present; the second was between that and the spring of 1885; no one but he and I was present; the third was between December 1, 1884, and the first or second week in May, 1885; I think the first person to whom I mentioned the conversation of May, 1882, was my wife; I did not mention it to any one else whose name I can recollect; I have mentioned it recently to persons connected with this lawsuit. I came here on my own account, without being sent for; after I had said I would come, they asked me to; I sent word that I would come, to Mr. Archbold, the first day I read in the paper of the trial.

Q. Then you are a volunteer?—A. I am; I read of it in a New York paper, at Wilmington, Del.; that was after that trial had commenced; it was the first notice I saw of it; I telegraphed to Mr. Archbold, at New York; he was not there; I arrived here last Tuesday morning; I am stopping at the Genesee; I knew Mr. Archbold before this; I could not have sold my works to him without knowing him; I wrote to Mr. Archbold about the last of these conversations about a year ago, I guess; I wrote that letter because I wanted to tell him about it. I don't spend any of my time in the Standard office in New York; I don't go there; I was once in the office, and staid, I think, ten minutes.

Being further examined on behalf of the defendants, the witness said: I am not connected with the Standard Oil Company in any way, shape, or form, nor with the Standard Oil Trust, or anything of that name; I have no interest in any way in the Standard Oil Company; I am not in any shape a debtor of the Standard Oil Company; my business is not in any way whatever connected with that of the Standard Oil Company; I don't think that up to to-day they knew that I was carrying on business there in Philadelphia, as a manufacturer; my business is in competition with that of the Standard Oil Company as far as a small business like mine can be classed as competition. The suit brought against me on the Ewing patent was one in which large damages were claimed against me for infringement; after I ceased to manufacture in that concern, that did not in any way tend to diminish the claim against me for damages up to that time; I continued to defend that action against me until I obtained a stipulation waiving all such claims against me, and then I abandoned the defense of it.

Being further cross-examined, the witness said: The capacity of my manufactory is an eighty-five barrel still; I have no contracts as to the location or territory where I shall sell oil; I sell wherever I please, wherever I can find a customer; the Standard Oil Company never heard of my manufactory from me; I don't know that I have met Mr. Archbold but once in a year before I came here.

The defendants here offered in evidence from the pay-roll of the Buffalo Lubricating Oil Company, produced by the witness Matthews, in pursuance of a subpoena, the following entries:

.The payments of wages for the week ending—

May 28, 1881,	amount to	\$138.63	to 15 employes.
June 4, 1881,	amount to	162.51	to 16 employes.
June 11, 1881,	amount to	112.70	to 13 employes.
June 18, 1881,	amount to	151.93	to 14 employes.
July 2, 1881,	amount to	119.27	to 11 employes.
July 9, 1881,	amount to	130.23	to 10 employes.
July 16, 1881,	amount to	127.70	to 10 employes.
July 23, 1881,	amount to	151.87	to 15 employes.
July 30, 1881,	amount to	142.63	to 12 employes.
Aug. 27, 1881,	amount to	114.13	to 15 employes.
Sept. 17, 1881,	amount to	106.96	to 10 employes.
Oct. 22, 1881,	amount to	163.37	to 19 employes.
Nov. 5, 1881,	amount to	174.40	to 17 employes.
Nov. 12, 1881,	amount to	163.78	to 16 employes.

Each of the preceding dates is Saturday. It also appears from the pay-roll that Jerry Thomas worked upon each day of the week ending Saturday, June 18, 1881.

The names of the employes on several of these dates, as entered in the pay-roll, are as follows:

On July 2 the names of the employes were: C. C. Beardsley, John Avery, B. Taylor, Jerry Thomas, Geo. Massey, P. Griffin, Dick Lewis, C. Reanor, T. Miller, J. Sullivan, Louis LaPres.

August 27: C. C. Beardsley, Jerry Thomas, Dick Porter, M. Kiley, F. Bissett, Louis LaPres, John Johnson, Rube Stillwell, Lawrence Moore, F. R. Beardsley.

October 22: C. C. Beardsley, F. R. Beardsley, Jerry Thomas, F. Bissett, M. Kiley, Dick Porter, Louis LaPres, Johnson Gleason, Walter Groves, Bill, Charles Ashley.

October 29: C. C. Beardsley, F. R. Beardsley, Jerry Thomas, F. Bissett, M. Kiley, Dick Porter, L. LaPres, Johnson Gleason, Walter Groves, Charles Ashley, German, Frank LePaige, LaPres' brother, Tim. McGuire, Pat. Griscoli, Wales, W. Brewster.

JOSEPH P. DUDLEY, a witness on behalf of the defendants, testified:

I am manager of the Star Oil Company, and have been in the oil business for about twenty-five years; I have refreshed my recollection by examining records so that I can state what the price of illuminating oils was in the city of Buffalo in the years 1881 and 1882; the price to retail grocers for oil commonly used at that time was 5¢ to 6 cents; there are fifty gallons to a barrel; that would be \$2.75 to \$3.00 a barrel for the refined oil.

Upon cross-examination the witness said: In the early part of 1881, the winter of 1881, I think, common oil was 5½ cents; the fluctuations in 1881 were very slight; in the middle of 1881 I should say 150 water-white oil was worth 10 cents; that was the price.

The Star Oil Company is a Standard concern; it is not a manufactory; it distributes oil.

Being further examined on behalf of the defendants the witness said:

Q. Do you know what the price of lubricating oil was?—A. Well, lubricating oil covers a multitude of sins; there were various prices of lubricating oil; from 5 cents, according to quality.

Being further cross-examined the witness said: We are selling 150 water-white oil to-day at 6 cents; I can not tell what the price of crude oil was in Buffalo in 1881; I was not dealing in it; I might have known the prices of crude oil at that time, but I don't know them now.

(Upon looking at a paper presented to him.) That would seem to be a sale of oil by Dudley & Co. on February 19, 1881, of 242½ gallons of 120 at 12 cents per gallon; I think very likely that sale was made; that is a medium grade of oil; it is not what is considered a low grade; that sale was in the spring of 1881; on my former examination I was asked as to the winter of 1881; that is not in the winter of 1881, as I understand; I meant to speak from July, 1881, and so on.

Mrs. CHARLOTTE B. WILSON, a witness on behalf of defendants, testified:

I live in Rochester, and am the wife of J. Scott Wilson; I have known Charles B. Matthews since the winter of 1880, or spring of 1881; I remember his being at my house in Rochester about the middle of March, 1881, and having a conversation there with my husband about coming to Buffalo; they were in the parlor and I was in the back part of the parlor; they are divided by double doors, which were open; I was near enough to hear what they were saying; I then heard Mr. Matthews say to my husband, in substance, that the Standard Oil Company would buy out the new concern; I heard him say further, "We must make a good showing and then the Standard will buy us out."

Upon cross-examination the witness said: I think my husband owned stock in the Buffalo company; I never saw the stock-book of the company.

The witness **J. SCOTT WILSON**, being further examined on behalf of the defendants, said:

I heard you read the names of the persons from the pay-roll which Mr. Matthews produced; I recognized some of those names as the names of persons employed at the Buffalo Lubricating Oil Works, but not all of them; I can not tell you what ones I did not recognize; we did not have any persons on our pay-roll, that I know of, except those that were employed at the works.

THOMAS G. OUTERBRIDGE, a witness called on behalf of the prosecution, testified as follows:

I reside in the city of Rochester, N. Y., and am one of the attorneys for the defendants in this action; I know Captain Mack; he was employed by me in behalf of the defendants to look up evidence in Corry, Pa., and this employment commenced at least a year ago.

Q. He had no other business except to look up evidence, that you know of?—A. That is all.

It was admitted by the prosecution that water when raised to the densest form of steam is increased six hundred volumes in bulk.

Witnesses from the city of Rochester were examined in support of the general character and standing of the defendants H. B. and C. M. Everest in that community, as follows:

Charles F. Pond, secretary of the Rochester savings bank, who said that during the whole of the period of ten or fifteen years their general reputation was of the very best.

Alfred Wright, manufacturer of perfumery, who said that their general character and standing as men for many years that he had known them had always been high.

Daniel W. Powers, banker, who said that for many years their character and standing as men in that community was very good.

Samuel Sloan, president of the Mechanics' savings bank, who had known the father for twenty years and the son since he was a little boy, that their general character and standing in the community was not surpassed by any business men in the city.

Cornelius R. Parsons, mayor of Rochester for nearly twelve years continuously, who said that their general reputation and standing was excellent.

John H. Rochester, managing officer of the Mechanics' savings bank, who had been acquainted with their character and standing for ten years or more, and said that it was of the highest character.

William S. Kimball, manufacturer of tobacco, who said that it was as good as that of any citizens of Rochester during many years that he had known them.

Rufus A. Sibley, dry goods merchant, of the firm of Sibley, Lindsay & Curr, who had known Charles for ten or twelve years and his father much longer, who said that their character and standing was excellent, and had always been.

Louis Ernst, dealer in hardware, who said that it had been good during all his acquaintance with them.

The witness MILLER, being re-called for further cross-examination, said:

I knew a man in California by the name of Denis; I had a farm in San Bernardino County, on the Colton road; I think I negotiated for the purchase of it in August, and in September or October I went back there.

Q. Did you, in September or October of 1881, at your farm in San Bernardino County, say to Mr. Denis that you would down the Everests if it cost you your life?—A. Never.

AUGUSTUS H. DENIS, a witness for the defense, testified:

I heard the witness Miller, at his farm in San Bernardino County, Cal., in the month of September, 1881, make the remark that he would down the Everests if it cost him his life.

Being cross-examined the witness said: I came from California, but at this present I came from Florida; I live at Tampa; I arrived here Tuesday night; I am raising oranges, and have an orange grove at Tampa; I went there last November; I had stopped there on my way to Havana several times three or four days, but I never lived there before until I purchased this orange grove last November; I resided in California for a year or so; I was living in New Orleans, La., before I went to California; I was born in New Orleans, and lived there off and on all my life; I am of French descent; in New Orleans I was doing nothing, living with my father; he is a lawyer; in California I was with my brother for a while; he was the editor of a newspaper, and I was with him for a while in an office; I did not do much of anything on the paper except help in any way I could; I would occasionally keep the books; I did nothing besides being in the newspaper office.

Q. Did you do anything else but occasionally keep the books?—A. Well, I remained in the office during the day.

Q. You sat down in the office?—A. Yes, sir.

Q. Anything else besides sitting down?—A. As little as I could.

Q. As little as you could?—A. Yes, sir.

I first made the acquaintance of Hiram B. Everest last Wednesday morning, I believe; I never saw him before; I first made the acquaintance of Charles Everest last Tuesday night.

The conversation I have spoken of occurred on Miller's farm, on the Colton Ridge, between Colton and San Bernardino; there was present a German by the name of Frank Mindler, and Mindler's wife was there; after Miller said this, I never told it to any one that I know of, until questioned if I had heard it, then I said I had heard that remark; I was asked by Captain Mack in New Orleans if I had heard any remarks; I saw Captain Mack at the St. Charles Hotel; I think it was January, a year ago; Captain Mack did not write it down, to my knowledge; He was in New Orleans a week or more, I suppose; I do not know how he came to find me; I never told this story to any one except Captain Mack in my life; and Captain Mack came right to New Orleans and found me there.

It was admitted by the district attorney that the number of barrels of crude petroleum run by the Buffalo Lubricating Oil Company to the 1st of January, 1882, was 18,293.

The defendants here rested their case.

HIRAM BENEDICT, a witness called in rebuttal on behalf of the prosecution, testified:

I reside in Lockport; my business is farming and other things; I am one of the directors and also treasurer of the Buffalo Lubricating Oil Company; I know Mr. Alfred P. Wright of this city, and have, perhaps, twenty years; I also know J. Scott Wilson; I was present at the conversation between Alfred P. Wright and Mr. Matthews, at Henry Morse & Co.'s office, in Buffalo, in October or November, 1885; it occupied, I should say, not more than half an hour, it might have been longer; it was talked over there at the time in regard to the law-suits pending, and about the indictment; something was said there by Mr. Matthews about withdrawing the criminal prosecution; Mr. Wright proposed to buy the capital stock of the Buffalo Lubricating Oil Company; he said he would get us a good price for our capital stock, provided we would withdraw the civil and criminal suits; Matthews told him that if they bought the capital stock of the company, they could do what they was a mind to with the civil suits, but with the criminal suit he had nothing to do; the people had that in charge; I told him just what my lawyer told me to tell him beforehand.

I had quite a number of conversations or talks with Mr. Wright on the subject, but only one when Mr. Matthews was present that I recollect.

I know that J. Scott Wilson never owned any stock in the Buffalo company, from the fact that no stock was ever issued at the time or since, that J. Scott Wilson could have.

I came to Buffalo at the first beginning of the business, after Miller left; I could not see that Mr. Wilson ever did anything around there but talk; he was never superintendent of the works; he never had the management of the oils; his business was to sell oil as he was instructed.

Upon cross-examination, the witness said: I am sure that Mr. Wilson was never a stockholder in our company; I mean by that that he never bought any stock; he never was a stockholder; some people bought some and did not get it, but he did not buy any; what I mean is that no stock was issued that he could get or have in his hands or see; there was none issued up to the time he left our concern; there were stockholders, because they subscribed for it and paid for it; I don't know that Mr. Matthews was our stock commissioner for the issuing of stock; I don't know whether I know Matthews' hand writing; I have seen it.

(Paper shown witness.)

That looks like Mr. Matthews' signature; I should think it was; the company was not organized then though.

The paper was offered and received in evidence as Exhibit 6.

EXHIBIT No. 6.

OFFICE OF BUFFALO LUBRICATING OIL COMPANY,
BUFFALO, May 2, 1881.

Received of John S. and John G. Wilson, \$100.10 per cent. of \$1,000, subscribed this day to the capital stock of the Buffalo Lubricating Oil Company, Limited.

C. B. MATTHEWS,
Stock Commissioner.

I know Wilson never made any of the payments; I know it because I know I never received any of the money; the company never received the money; I was not living in Buffalo at that time, I lived in Lockport; in 1881, after the 1st of June, I spent a large portion of my time in Buffalo, more than half of the day-time; I have been here almost every day for the last twenty years; my business here was various things.

Q. And you say that he never paid the balance of his subscription?—A. No; he said he was defunct and could not take it.

Q. I did not ask what he said; what did you say?—A. He said he was defunct and could not take the stock; I carry on some farms; the farms are not in Buffalo; also in the business of boat-building, that is carried on at Lockport; also in the management of some canal boats, that is carried on in Buffalo; also in the forwarding and commission business in Buffalo, and various things besides I do if I think I can make an honest dollar at it in an honest way; those are my regular businesses.

The witness MATTHEWS, being recalled on behalf of the prosecution, testified:

I was not in the city of Philadelphia during the years 1884 and 1885; I know it from my recollection, and from my diary; it shows where I was every day; I have

examined that diary. I know the witness, William O. Allison; I met him in the fall of 1885 at our Main-street office; Mr. Allison said, "I should think you would be tired trying to carry on the oil business, and if I was in your place I would sell out." I told him I would rather sell out than be crushed out; he said he knew more about the Standard's power to crush anybody out than he used to; he asked me what we would take for the stock of our company. I told him that I had had a little talk with our directors, and that we would sell it for \$300,000. He said that then that will control the civil actions, the actions you have pending. I told him it would. He asked me, "Don't you think that is a good deal too much?" I said that they had done us great damage, and that the damage done us, with the value of our works and trade, it would be a reasonable price. He asked me if I could settle, or would settle the criminal action pending. I told him that I could not—had no right to do it—it was out of my hands. He says, "Can you trust the district attorney in that matter?" I told him I could. He says, "The Standard Company can give him anything, even to being governor of a western Territory." I told him I was aware of their power in these matters, but that was a matter that was out of my hands. I did not at any time during that conversation say that the criminal case would be *nonle prossed*. Nothing was said about my being taken into the Standard Oil Company's employment. He asked me if I would come to Cleveland if he telegraphed me to do so. I met Mr. Allison at Syracuse, subsequently, at the Globe Hotel. Nothing was said there about my share of the money, only I said that I was tired, and my share of the money would give me a chance to take a trip to California or Europe, or somewhere. Nothing was said about \$150,000, or \$100,000 being my share, or anything of the kind.

Upon cross-examination the witness said: At some of the conversations, I wouldn't be positive which one, there was something said about my going to Europe or California; there was something said about Miller I remember. It was not said that he could not be got back to testify unless I wished him to come. Something was said about his being out of the State, and upon the subject of his not coming back into the State to testify unless I wished him to. It came in connection with our talking about how this indictment could be managed.

Being further examined on behalf of the people the witness testified: I told him, Mr. Allison, that a persistent effort had been made by the Standard to get Miller out of the State where he was, and out of the country, and I was afraid they would get him away, so that he might not be used in this case. There was not anything said particularly on the subject of Miller, in reference to getting rid of the indictment in case they paid the \$250,000.

The people here rested their case.

J. SCOTT WILSON, being recalled on behalf of the defense, testified:

Ten per cent. was all I paid on the stock; there was no stock issued; I was not required to pay the rest, and I did not pay it; I paid as much as the others did at the time.

The evidence here closed, and the above was all the evidence taken on said trial.

All the evidence offered upon the trial of this action against the defendants Rogers, Archbold, and McGregor, and also all evidence offered in support of the charge of falsely bringing and maintaining suits, has been as far as possible omitted from this bill of exceptions.

The defendants requested the court to direct a verdict of acquittal as to each of the defendants, upon the same grounds as at the close of the proofs for the prosecution.

The motion was denied, and the defendants severally excepted.

The court thereupon proceeded to charge the jury as follows:

Gentlemen of the jury:

Wearied and anxious for your release, as I know you are, still, gentlemen, the gravest and most important of your duties is yet to be discharged. You have sworn that you will well and truly try, and a true verdict render, according to the evidence. This duty you are called upon to discharge in reference to the defendants that are on trial before you. Its honest, conscientious performance is demanded by the people; the defendants are entitled to it.

It has been said that this case was an important case, and so it is, for the public is interested in the preservation of public and private rights, as well as public and private property, and is therefore interested in enforcing the laws that are enacted to preserve them. The defendants are interested because their character and personal liberties are at stake. It is also important because of the important personages connected with this litigation, in which is involved the character of men who are known widely throughout the United States in the business and in the commercial world.

The evidence, gentlemen, to which you have listened is of two characters, that which is known as direct evidence, and circumstantial evidence. Direct evidence is

that which is given from the mouths of witnesses who speak from personal knowledge, knowledge which they have derived by means of their senses, as that which they have seen, heard, and can speak of with certainty. Circumstantial evidence is a variety of facts established by means of direct evidence, a variety of circumstances, which, connected and united together, force the mind to a conclusion upon a given subject. And it is commonly likened to a chain with its various links. As I have stated, we have in this case both direct and circumstantial evidence. In deliberating upon the evidence, and in determining the questions which will be submitted to you for your determination, it becomes necessary for you to consider and weigh the evidence, and in doing so you will be called upon to determine the guilt or innocence of these defendants.

In determining the question as to whether a person charged with crime shall be convicted or not it becomes the duty of the jurors to determine the question, and to become satisfied as to the guilt of a person charged, beyond a reasonable doubt, and in case there still remains in the minds of the jurymen a reasonable doubt, then we are commanded, under the statute, to give the prisoner the benefit of such doubt. We are thus, gentlemen, brought to inquire what is a reasonable doubt, for a reasonable doubt is not every fancy that seizes upon the mind of man, but it must be, and is, a doubt which is founded upon some facts, some circumstance, or some theory which creates a reasonable doubt in the ordinary mind of man, and when such doubt exists, founded upon some fact, circumstance, or theory, then the defendants are entitled to the benefit of it. If, however, the jurors become satisfied beyond such reasonable doubt, then the people are entitled to a verdict of conviction.

The statute of our State, gentlemen, provides that where two or more persons shall conspire to commit an offense, and so on, they shall be guilty of a misdemeanor. And the particular provision of the statute to which I wish to call your attention is, that in case two or more persons shall conspire to commit any act injurious to the public health, or to public morals, or to trade and commerce, or for the perversion or obstruction of justice, or the due administration of the law, they shall be deemed guilty of a misdemeanor.

You will thus see, by the provisions of the statute, that in case two or more individuals conspire or combine together to do an act injurious to trade or commerce, that such persons, in so conspiring together, become liable under this statute.

The indictment in this case charges these defendants with conspiracy, and the offense charged is that they conspired together to injure trade and commerce.

The first question, therefore, which it will become necessary for you to determine from the evidence, is as to whether or not there is a combination between these defendants, an agreement, an arrangement, a determination, a conspiring together of these defendants, for the purpose of injuring trade and commerce; this will be the first question for you to determine. If you come to the conclusion that there was such a determination, such a combination, such a conspiring together, or conspiracy, then it will become necessary, in the further determination as to whether a crime has been committed, for you to determine whether or not there has been any overt act committed on the part of these defendants tending to carry out and complete the injury to trade and commerce so agreed upon. These, gentlemen, are the provisions of the statute, and this is the offense which is charged against the defendants in this case. The important question which we are to determine, and which you are called upon to determine here, is as to whether or not these defendants, Hiram B. Everest and Charles M. Everest entered into a conspiracy, or combination, or agreement to injure trade and commerce. In considering this question, it becomes your duty to go back and to review the evidence to which you have listened during the last two weeks.

It appears from this evidence, the undisputed evidence, as I understand it, that there was organized and in operation in the city of Rochester, in this State, a corporation known as the Vacuum Oil Company; that the defendant, Hiram B. Everest, was the president of that corporation, and Charles M. Everest was an officer also of the corporation, and that they were engaged in operating it chiefly with other stockholders. It appears further from the evidence that in 1879, some portion of the stock of this corporation, two-thirds of it, if I recollect correctly, was sold to certain gentlemen in the city of New York, by name Rogers, McGregor, and Archbold, but the operation of the corporate property still continued on under the direction of the Everests, H. B. still continuing to be the president, Charles M. the vice-president, and also, I believe, he was appointed the general manager of it. Thus it continued down until 1881, when Wilson, who was in the employ of that company, Matthews, who was also in the employ of that company, and Miller, another employe, entered into an agreement and an arrangement between themselves to quit the employment of the Vacuum Company, and to come to Buffalo and construct oil works in this city.

It appears that they did come to Buffalo, and entered upon the construction of an oil refinery here, and that this refinery progressed to such a point that on the 15th day of June, of that year, the first run of oil was made from one of the then-completed

still, and that this run was a 175-barrel run, and that during the progress of the distillation it appears that the safety-valve upon the top of the still blew open, and that there was vapor and gases that escaped through the safety-valve, and that it floated away upon the air.

Now, gentlemen, this is undisputed history in the case. No question is made about it. It is claimed on the part of the public prosecutor, that the blowing open of the safety-valve on the 15th day of June was in accordance with an arrangement previously made by and on the part of these defendants with Miller, by which these works, which were then in progress of completion in the city of Buffalo, were to be injured and destroyed. This is the claim that is presented on the part of the prosecution. And it is claimed that this attempt was made to thus blow up the works in furtherance of the unlawful combination and agreement that was made, or was claimed to have been made, between these defendants at some prior time. Now, gentlemen, this becomes the chief and the important inquiry in this case; and in the consideration of it I invite your attention with much care to the evidence that has been given on behalf of the respective parties in this case, both that on the part of the prosecution and on the part of the defense. It is thus claimed on the part of the prosecution, whilst on the part of the defense it is claimed that there was no agreement or conspiracy between these two defendants to do any injury to the Buffalo works, and on the other hand it is claimed on the part of the defense that there never was any attempt to do any injury to the Buffalo works; but, on the other hand, that the blowing open of the safety-valve on the occasion of June 15 was but an ordinary occurrence, such as was liable to happen in the manufacturing and distillation of oils; that it frequently occurs; and it is claimed that it was merely a careless act, unintentional, and was not done in accordance with any prearranged or concerted plan on the part of the defendants and Miller. Now, gentlemen, as bearing upon the claims of the respective parties in this regard, I invite your attention to the evidence. The first evidence we have as bearing upon this question occurs in the testimony of Mr. Miller, who testifies to his going to Rochester and of his having an interview with Mr. Everest at Mr. Truesdale's office; and his testimony is, in substance, that they were at Truesdale's office whilst they were discussing the question as to how Miller could get relieved from his agreement or contract with the Buffalo people; that whilst they were discussing that question the suggestion was made by Mr. Everest that he could do something in reference to the works; that the suggestion was made that he could cut up something or do something to injure them or something of that kind. This, gentlemen, was the language of Miller as to what took place in Truesdale's office; and then again we have, as bearing upon this question, the testimony of Mr. Truesdale, who was also present; and he tells us that they were discussing this question as to how Miller could get relief, and so on, and then he says that the defendant, H. B. Everest, said: "Suppose he should arrange the machinery so that it would bust up or smash up, what would the consequence be?" to which Mr. Truesdale replied that it was his opinion that if it was negligently and carelessly done, not purposely done, he would only be civilly liable for the damages caused by his negligence, but that if it was willfully, intentionally done, then that there would be a criminal liability. And on the cross-examination Mr. Truesdale further testified that this suggestion was made, and that at the time it was so suggested that they were discussing the question in reference to Miller's getting released, and that the suggestion was made in reference to some careless act on the part of Miller, careless, negligent, act, not intentional act, so that Miller would get discharged; that is, discharged by the Buffalo company. Now, then, one other piece of evidence, and that is on the part of Mr. Miller again, who testifies to having had a conversation with C. M. Everest, and he tells us that it was on or before the 23d day of June, the precise time he is unable to state, but that it was on or before that date, he tells us, and the conversation, as related by Miller, was to the effect that Charles M. told him to go back to Buffalo and construct the pipes so that they could not make good oil. And then it was further suggested to him, as Miller claims, that Charles stated that it would be a good thing if he should give them a scare, or something to that effect. This, gentlemen, I believe is all the evidence, all of the direct evidence bearing upon the question as to whether or not there was an agreement or an arrangement between H. B. Everest and Charles M. Everest to do an unlawful act in reference to the Buffalo works. Now, then, on the part of the defendants, Mr. H. B. Everest, he tells us that no such suggestion was made by him at Mr. Truesdale's office as is related. He tells us that he did not so question Truesdale, but he says that on that or some other occasion, he can not recall which, there was a suggestion made by Mr. Miller in reference to his fixing the pipes, and so on, and that Mr. Everest considered the suggestion as scandalous, and so on. So that, gentlemen, you have the evidence of the respective parties bearing upon this question.

You have to take into consideration all the circumstances that have been sworn to by the various witnesses, bearing upon this transaction, for the purpose of determining in your own minds as to whether or not there was this combination, this agree-

ment, this conspiring together between these defendants. If you come to the conclusion from this evidence, that there was no conspiracy, why, then, so far as this branch of the case is concerned, the defendants would be entitled to your verdict. If, on the other hand, you should come to the conclusion that there was this conspiring together, that there was a conspiracy between these defendants on that occasion, then it will be your duty to pass on and consider the other question, and that is as to whether or not there was an attempt, an act, subsequent to that, on the part of these parties, by which they attempted to carry out the arrangement, the agreement, the conspiracy, made by them.

Now then, for the purpose of determining whether or not this was carried out, whether or not there was an attempt made to blow up the works, we have the evidence as to what took place on the 15th day of June, and as to what occurred on that day, there appears to be little conflict in the testimony of these witnesses. For, as I have already stated, it is a conceded fact that this safety-valve did blow open in the manner described by these witnesses. It is contended on the part of the prosecution that this was a willful act; that it blew open in accordance with that which was intended on the part of these parties beforehand, and that for that purpose, Mr. Miller, who was there in charge of these works, had caused an unreasonably hot fire to be constructed under this still, a hotter fire than was necessary or should have been built on that occasion, and that he went away from the still, and so on, so as to be absent when the explosion did in fact take place. This is the theory that is presented on the part of the prosecution; whilst on the part of the defendants it is claimed that there is no such inference to be drawn from this testimony; that there is nothing in the blowing open of the safety-valve that tended to show any criminality on the part either of these defendants, or of Mr. Miller, and that the building of the fire that was built on that occasion, that it was no hotter or greater fire than was necessary for the rapid distillation of that quantity of oil that had been put in the still.

Now, then, gentlemen, as to what was actually intended by Miller there on that occasion, we are left wholly to the inference that is to be drawn from the surrounding circumstances. Miller is not questioned upon that subject as to whether or not he intended to blow up these works on that occasion. His lips have not been opened. He has not told us whether it was his intention to blow them up, in accordance with the suggestions made to him by these defendants. Therefore, we are left wholly to determine this question from the surrounding circumstances of the case. And if you become satisfied that there was no attempt on the part of Miller there on that occasion to blow up these works, but that this escaping of the gas through the blowing open of the safety-valve was but a careless act, owing to the building of a hot fire, and that there was no wrong intention, why, then, of course, so far as this branch of the case is concerned, the defendants would be entitled to your verdict. But if, on the other hand, you become satisfied, and that beyond reasonable doubt, that there was an attempt there on that occasion to blow up these works, to destroy them, and that a fire had been arranged in accordance with that intent and purpose, and that this was being done by Miller, in accordance with a suggestion or plan that had been previously arranged between him and these defendants, in the city of Rochester, then, gentlemen, it will become your duty to convict of the crime charged.

Much evidence, gentlemen, has been taken as to the effect of blowing open the safety-valve there on this occasion, as to whether or not it was dangerous, as to whether these escaping gases were inflammable or not. Of course, the only importance of this testimony is for the purpose of aiding you in determining what was the intent and purpose of this transaction; whether or not it was the intention to blow up these works in that manner, or whether it was simply a careless act on the part of Miller, or those who were in charge of the still, for which these defendants are not responsible. So much, gentlemen, for the question of the conspiracy as charged in reference to blowing up or injuring of the Buffalo works. There is one other overt act charged in this indictment, which it is claimed was an injury to trade and commerce, and that is that Miller, an employé of the Buffalo works, was enticed away by these defendants. Now, gentlemen, in reference to the enticing away of a servant by one individual from the service of another, it is not of itself criminal, but you have no right to go to your neighbor's and entice your neighbor's servants from his employment, and in case you do so you become liable for damages, such as he can prove that he has sustained by reason of your unlawfully enticing away his servant. Still you would not be guilty of a crime. But if in the enticing away of a servant, if the effect of that is to injure trade and commerce, then, gentlemen, it may become an offense within the provisions of this statute, provided there is a conspiracy, and the enticing away was done in accordance with and in the furtherance of this conspiracy.

Now, gentlemen, the evidence as to whether or not Miller was enticed away is really in a nutshell. There is no question but that he left the employ of the Buffalo Company; but that he re-entered the employ of the Vacuum Company; but that for

some weeks he was in Boston, and that afterwards he went to California. There is no question in reference to that transaction. But it is contended on the part of the prosecution that he was induced to come to Rochester to see Charles M. Everest; that he was requested to come there again and to meet the father, H. B. Everest, when he returned from the West; and that after he had waited upon these gentlemen that representations were made to him to the effect that the Buffalo Company could not continue for any great length of time; that suits were to be brought against them, and that the best thing for him to do was to get out of the company, and to get his property in such a shape as that it could not be reached by execution issued upon a judgment. This is the claim that is presented on the part of the prosecution, and it is in substance the story of Miller.

Now, on the part of the defendants quite a different story is told. It appears in the deposition of Mr. H. B. Everest, which has been read in evidence here, and it is to the effect that he came to Rochester and waited upon him soon after his return from the West, and that he was asked the question as to whether or not he was there for the purpose of making any proposition in reference to his employment; that he had stated that he had made up his mind to leave the Buffalo concern, and that he was upon a promissory note for \$5,000, and he wanted to escape liability; that Mr. Everest then informed him that he had no proposition to make to him, that the time had passed, that he was too late, and so on; and finally, after further conversation in reference to how he had been deceived in reference to his employment and connection with the Buffalo concern, that finally it was talked over and agreed to by them, by which he should go to Mr. Truesdale's office and seek his advice as to what he ought or had best do in the premises; and that subsequently they went to Mr. Truesdale's office, and that powers of attorney were subsequently given, by which he was given power to transfer his property, and so on.

Now, gentlemen, the question of fact for your determination is whether or not these defendants, by sending to Buffalo, or communicating with him in Buffalo whilst he was here in the employ of the Buffalo Company, whether or not they held out any inducement for him to leave the employment of the Buffalo Company, and to enter their employment. Or whether, on the other hand, Miller, of his own free will, in the exercise of his own judgment, made up his mind to leave the Buffalo Company, and then, after having so made up his mind of his own accord, went to Rochester and offered his services to that company. If you come to the conclusion that Miller had determined to quit the Buffalo Company, to get out of it, and save himself from responsibility upon the note, if he could, and that, acting under that determination, he of his own accord went to Rochester and offered his services there to that company, then, gentlemen, they had the right to hire him, because the servant had come to them of his own free will, and tendered his services.

But if, on the other hand, they enticed him away, either by threats or promises; got him to leave the Buffalo Company and enter their employment; then, gentlemen, they would become liable civilly for such damages as the Buffalo parties sustained by reason of having their servant enticed away, and in case you come to the conclusion that the fact of so enticing him away was an injury to trade and commerce, and that that done was in accordance with this conspiracy, which is charged to have been made between these defendants in the city of Rochester to injure and destroy the Buffalo works, then, gentlemen, it would be criminal.

Upon this branch, then, gentlemen, it would be necessary for you to determine whether or not the services of Miller were so essential to the Buffalo works as that the taking away of his services from those works was an injury to trade and commerce. It is contended on the part of the prosecution that he was the experienced man; that he understood about the manufacturing of the stills and their operations, and that there was no one else connected with them that could manufacture good, merchantable oil, or that could carry on the completion of the works properly, and that the taking of him would interfere with and stop to some extent the further completion of the works, and that they were not able to manufacture a good oil thereafter. On the other hand, it was claimed that Miller was not any very great expert; that Mr. Wilson was the chief man in charge of the construction of the works and the manufacturing of the oil; that they were conducted under his directions, and that these parties mainly interested, that is, Mr. Matthews, and so on, expressed joy that Mr. Miller had gone, by stating that they were glad that they had got rid of him, etc. So, that, gentlemen, in case he was not necessary in the construction of the works, or in the manufacturing of the oil, if that could be done as well by others there in their employ, or those who were really at hand, then the enticing of him away would not necessarily retard the work, and it would not follow as a consequence that there was an injury to trade and commerce. But if, on the other hand, you come to the conclusion that he was an essential man there, and that they could not manufacture good, merchantable material without him, and the taking of him away prevented such manufacturing, then you would have the power to say that the enticing away of the servant was an injury to trade and commerce.

So much, gentlemen, for the evidence as bearing upon those two main overt acts charged in the indictment.

There is still another overt act charged, and that is the bringing of false suits; but the bringing of these suits has not resulted in the issuing of any injunction by which the operation of the works has been interfered with. There has not been any evidence produced before us showing that these suits were false suits. The fact that the suits were unsuccessful does not necessarily establish the fact that the individuals bringing them knew that they were false suits beforehand. Because the evidence fails to show want of probable cause upon the question of the bringing of the suits, this prosecution—that is, the prosecution of these suits—may be omitted from your consideration; for I am of the opinion, as I have already expressed in reference to the New York defendants, that the evidence upon the question of these suits is not sufficient to authorize a verdict upon that branch of the case alone. So, that, gentlemen, the question that you are to determine is as to whether or not there was a corrupt agreement and conspiracy between these defendants, and whether or not there was an attempt to carry that conspiracy into force and effect, either by the blowing up or destruction of the works, or by the enticing away of a servant, to the injury of trade and commerce. Having determined this question, you will determine all that it is essential for you to determine in this case.

Now, gentlemen, on the part of the defense it is claimed that there has been some conspiracy on the part of these parties who have been sworn as witnesses for the prosecution; that there was an arrangement between them by which they were to compete with the works of the Vacuum Oil Company; that they were to enter upon the construction of the works here in Buffalo, and that these works were constructed for the purpose of forcing the Standard Oil Company or the Vacuum Oil Company to purchase them out; that that was the scheme and arrangement of these parties. Now, then, gentlemen, as bearing upon that question, why, you have heard the testimony of the witnesses, and I have no further comment to make in reference to it. Much evidence has been given on the part of the defense as to the declarations made by Mr. Matthews and by Mr. Miller on different occasions, and these declarations were introduced in evidence for the purpose of showing Mr. Miller's interest in the litigation, and for the purpose of showing some conspiracy on the part of these parties. Another piece of evidence, gentlemen, to which it becomes my duty to call your attention, is the question of good character. The defendants here have introduced the testimony of several witnesses from the city of Rochester, who have testified in reference to the good character of these defendants. It becomes the duty of the jurors, and it is the right of the defendants, to have this evidence taken into consideration in connection with the evidence, the other evidence that has been given in the case, and it is for you to say from all of the evidence, that of the good character as well as the other evidence, whether or not the defendants are guilty of the crime charged. If you come to the conclusion that they are guilty of the crime, and that beyond reasonable doubt, after having considered all of the evidence, including that of good character, then, gentlemen, it becomes your duty to convict. If, on the other hand, you are not satisfied of their guilt beyond a reasonable doubt, then, of course, it becomes your duty to acquit.

In conclusion, gentlemen, allow me to caution you against any hasty or passionate discussion of the evidence, but coolly, calmly reason, one with another, to the end that your minds may reach a common conclusion, for it is not the judgment of any one of your number that we seek. It is the united wisdom and judgment of you all. Bring to bear, therefore, in the consideration of this case, your cool, deliberate, judgment, and conscientiously answer the questions which are here propounded to you, by your verdict. In doing so, you will have discharged your duty as jurors.

I am requested, gentlemen, to charge, by counsel, the following, which I do charge, and that is: "In order to convict, the prosecution must show that some act, in furtherance of the alleged conspiracy, was done in Erie County."

I have already charged fully that there must be some overt act in order to carry out and complete the conspiracy, and I now charge further, that the act must be done in Erie County in order to entitle the criminal courts of this county to have jurisdiction.

Also, "that the alleged enticement of Miller was not such an act, because nothing in relation to that act was done in the county of Erie." That I refuse.

Also, "that there is no proof to sustain the allegation of maintaining false suits, as there was no proof of want of probable cause for those actions." That I charge.

I also charge you, gentlemen, that "a conspiracy merely to injure a private person by an act not unlawful in itself, does not come within the provisions of the statute forbidding conspiracy to injure trade and commerce."

I also charge that "the conspiracy to injure trade and commerce, which is condemned by the statute as a misdemeanor, must be an injury to public trade and commerce and must tend to injury of the public."

I also charge the following: "Unless the jury find both defendants concurred in a

criminal purpose, they must acquit both, even though they find one to have done wrong."

I charge that it takes two to make a conspiracy. One can not make a conspiracy. There is one other charge which I make, "that the deposition of Hiram B. Everest is not evidence as against Charles M. Everest." That I charge.

The counsel for the defendants requested the court to charge that, in order to convict, the prosecution must show that some act in furtherance of the alleged conspiracy was done in the county of Erie. The court so charged. And, in the same connection, the counsel for the defendants requested the court to charge that the allege enticement of Miller was not such an act, because nothing in relation to that was done in the county of Erie. The court refused so to charge, and the counsel for the defendants excepted.

The defendants' counsel requested the court to charge the jury that since the evidence shows that Miller had distinctly decided to leave the employment of the Buffalo company before the conspiracy charge was formed, if it was formed, and before he entered such employment, there is no evidence to authorize a finding of any such enticement as constitutes an act in furtherance of the alleged conspiracy.

The court refused so to charge, and the defendants excepted.

The defendants' counsel requested the court to charge the jury that a conspiracy merely to injure a private person, by an act not criminal in itself, does not come within the statute forbidding a conspiracy to injure trade and commerce.

The court refused so to charge, and the defendants excepted.

The defendants' counsel excepted to that portion of the charge in which the court instructed the jury that the enticement of Miller, if proved, was such an overt act as would sustain a conviction, provided the same tended to injure trade and commerce.

The jury rendered a verdict of guilty against the defendants; and thereupon the defendants moved for a new trial, and the court suspended sentence on the verdict until the hearing and decision of such motion; and because none of the said exceptions so offered and made do appear upon the record of said trial, therefore, in the presence of the defendants, the said court has signed said exceptions according to the statute in such case made and provided.

Dated this 21st day of October, 1887.

ALBERT HAIGHT,
Justice Supreme Court.

APPENDIX.

EXHIBIT S

is an envelope directed as follows: Mr. A. Miller, City. (Two-cent postage stamp, uncanceled. No post-mark.)

EXHIBIT T.

CORRY, 4-14, 1886.

MR. MILLER: Please call without fail to-night, as I have some special business with you that must be done at once.

F. SAXTON.

EXHIBIT U.

CORRY, April 3, 1886.

FRIEND MILLER: I would like to have you call on me at once, as I have something to our interest, strictly private, to you and me; call on me between 10 and 2 o'clock to-morrow, at my saloon—back door—when I am alone. Don't fail. Yours,

FRED. G. SAXTON.

EXHIBIT V.

CORRY, March 4, 1886.

FRIEND MILLER: Please call as soon as you come down, as I want to see you on special business. Yours,

FRED. G. SAXTON.

Arcade Saloon.

EXHIBIT W.

CORRY, April 29.

MILLER: Please call at my place at 8 this eve.; quite important.

F. SEXTON.

Supreme Court, Erie County.

BUFFALO LUBRICATING OIL COMPANY, LIMITED, }
 vs. }
 JOHN D. ARCHBOLD AND HENRY H. ROGERS, im- }
 pleaded with others. }

The defendants answer the complaint herein as follows: The defendants admit that the plaintiff is a domestic corporation, duly organized in the year 1881, and having its place of business in the city of Buffalo and county of Erie; that its business was and is that of manufacturing and selling oil, especially that of refining crude petroleum, and manufacturing therefrom lubricating oils. That it was and is the owner of valuable lands and expensive buildings, and that it had and now has in its possession the means of manufacturing oils of a superior quality. The defendants admit that said business can only be carried on by means of complicated machinery and scientific processes, and that the plaintiff was and is obliged to employ in and about said business superintendents, workmen, and other laborers of more or less skill. The defendants admit that prior to July 1, 1881, the plaintiff had facilities to manufacture oil from crude petroleum, and that the defendants understood that prior to said date the plaintiff had facilities for manufacturing as aforesaid.

As to each and every allegation in the first paragraph of said complaint contained not hereinbefore specifically admitted the defendants deny any knowledge or information thereof sufficient to form a belief.

Second. The defendants admit that the Standard Oil Company of Ohio is a foreign corporation, organized under the laws of the State of Ohio, and doing business in the city of Cleveland; that it was and for many years had been such a corporation in the year 1881, and that its business was and is that of manufacturing the various illuminating products that may be made from crude petroleum; that the Acme Oil Company is a domestic corporation, which was organized prior to 1877, and still exists; that the president of the Acme Oil Company was and is John D. Archbold; that said Archbold is interested in the Standard Oil Company of Ohio; that the Vacuum Oil Company was and is a domestic corporation, located at and doing business in the city of Rochester, N. Y.; that it was organized about the year 1866, and has been doing business since that time, its business being the same as that of the plaintiff, but not the same as that of the Standard Oil Company and Acme Oil Company; that its principal organizer and promoter was Hiram B. Everest; that its capital stock consisted of one hundred shares, the majority of which were owned by the said Hiram B. Everest and Charles M. Everest, his son, prior to the year 1879; that the amount of money originally paid in by the stockholders of the Vacuum Oil Company for the purpose of furnishing buildings and machinery for doing business was about the sum of \$13,500. The defendants admit that in July, 1879, seventy-five shares of the stock of the Vacuum Oil Company were purchased by Archbold, Rogers, and McGregor, who soon after transferred the same to the same persons who hold and own a majority of the shares of stock of the Standard Oil Company, a corporation engaged in the manufacture and sale of oil; that the consideration for such transfer was the sum of \$200,000; that the persons who transacted the business on the part of the Vacuum Oil Company were the said Everests; that at the same time the Vacuum Oil Company hired the said Everests for five years, with the privilege of ten years, at a salary of \$10,000 per year, said salary being guaranteed by the Acme Oil Company, to manage the Vacuum Oil Company, it being understood that said \$10,000 per year should be divided between said Everests as they saw fit, the said Everests being bound by a contract with the said Acme Oil Company not to refine or manufacture petroleum or deal in any of the products of petroleum, except for and on account of the Vacuum Oil Company, for the period of ten years from the date of said contract; that since July, 1879, the said defendant, John D. Archbold, has taken part in the management of the Vacuum Oil Company, the said Everests remaining in control thereof; that the said Everests have since owned and now own a majority of the twenty-five shares of stock not transferred as aforesaid; that the Standard Oil Company of New York is a domestic corporation, organized August 1, 1882; that its business is similar to that of the Standard Oil Company of Ohio and the Acme Oil Company; that said Hiram B. Everest has been the president of the Vacuum Oil Company since 1879, and the said Charles M. Everest has been vice-president thereof. The defendants deny that since July, 1879, the said Vacuum Oil Company has ceased to be a competitor of the

said Standard Oil Company and Acme Oil Company. As to each and every allegation in the second paragraph of said complaint contained not hereinbefore specifically admitted the defendants deny any knowledge or information thereof sufficient to form a belief.

Third. The defendants deny each and every allegation contained in the third paragraph of said complaint.

Fourth. The defendants deny each and every allegation contained in the fourth paragraph of said complaint.

Fifth. The defendants deny each and every allegation in the fifth paragraph contained in relation to a conspiracy between these defendants, and deny each and every allegation of acts done, advised, or connived at by defendants as such conspirators. They admit that Albert A. Miller was a skilled workman, and allege that he and Charles P. Matthews and J. Scott Wilson had been employes of the Vacuum Oil Company and were acquainted with the patented and secret processes by which said company manufactured oils. These defendants were informed and believed that said parties conspired together to leave the employ of the Vacuum Oil Company and to organize the Buffalo Lubricating Oil Company, Limited, with the intent to illegally use such patented and secret processes, and these defendants, as directors of the Vacuum Oil Company, with the object of preventing the success of such conspiracy and the illegal use of such patented and secret processes, advised their codefendants, Hiram B. Everest and Charles M. Everest, also directors and the active managers of said company, to endeavor to retain the said Miller in the employment of the said company, and after Miller had left the employment of the Vacuum Oil Company, being informed that he was desirous of going back into its employment at increased wages, they further advised that he should be re-employed if it could be done by reasonable increase of his wages. They were afterwards informed that Miller had been re-employed. They further advised that actions at law should be instituted against the plaintiff to prevent infringement of the patents of the Vacuum Oil Company, fully believing and being advised by counsel that said actions were meritorious and just. They further admit that they advised an action to be brought against J. Scott Wilson, but deny that the action was of the nature or for the purposes in said complaint alleged, and they believed and were advised by counsel that said action was meritorious and just. As to the acts of Albert A. Miller and the effects thereof on plaintiff, and the effects of the action against J. Scott Wilson on plaintiff, they deny any knowledge or information thereof sufficient to form a belief. Except as above admitted, qualified, or explained, the defendants deny each and every allegation of the complaint contained in paragraph fifth.

Sixth. Defendants deny each and every allegation in the sixth paragraph of said complaint contained.

Seventh. The defendants admit that the Vacuum Oil Company brought a suit in the United States circuit court against the plaintiff for the infringement of certain patents relating to the manufacture of oil; that said action was thereafter brought to trial, and that the court entered a decree dismissing the same with costs against the Vacuum Oil Company. As to whether or not the cost and expenses awarded the plaintiff by the decree in said action were totally inadequate to reimburse it for the expense to which it was put, and as to whether or not in defending said action plaintiff was put to an expense of \$3,000 and upwards, and was greatly annoyed and harassed, the defendants deny any knowledge or information thereof sufficient to form a belief. Except as above admitted, qualified, or explained, the defendants deny each and every allegation contained in the eighth paragraph of said complaint.

Eighth. The defendants admit that the Vacuum Oil Company, in or about the month of April, 1882, brought another action against the plaintiff, the bill in which was verified by the said Charles M. Everest, April 17, 1882, for the infringement of certain letters patent for apparatus relating to the manufacture of oil; that said action was thereafter brought to trial, whereupon the court ordered a decree dismissing the same with costs. As to whether or not over and above the costs awarded the plaintiff when said action was dismissed it was compelled to incur liabilities and expend moneys to a very large amount, and as to whether or not in the conduct of the defense to said suit plaintiff was compelled to expend about \$2,500, the defendants deny any knowledge or information thereof sufficient to form a belief.

Except as above admitted, qualified, or explained, the defendants deny each and every allegation of said complaint contained in the ninth paragraph thereof.

Ninth. The defendants deny each and every allegation contained in the eleventh paragraph thereof.

Tenth. The defendants, further answering said complaint, allege that on or about the 9th day of April, 1885, the Vacuum Oil Company, the plaintiff in the suit set forth in the ninth paragraph of said complaint, duly perfected an appeal to the Supreme Court of the United States from the decree of the circuit court thereof dismissing the bill in said suit, and the defendants allege that said suit in said ninth paragraph of the complaint set forth is still pending and undetermined.

Eleventh. The defendants, further answering said complaint, allege that the plaintiff, on the 21st day of September, 1881, for a consideration paid it by the said Albert A. Miller, in the ninth paragraph of the complaint mentioned, did release, acquit, and discharge the said Albert A. Miller of and from all liabilities, including his liability to it for any damages which it had sustained by reason of his leaving its employment, and did then release and discharge the said Albert A. Miller from its further employment.

Twelfth. The defendants, further answering said complaint, allege in defense and in abatement of this action, that at the commencement of this action there was and now is another action pending in the supreme court of this State, in and for the county of Erie, between the same parties as the parties to this action, except that the sole defendants in the former suit were and are Hiram B. Everest and Charles M. Everest, both of whom are made defendants herein, and for the same cause as that set forth in the complaint herein.

Wherefore the defendants demand judgment, that the plaintiff's complaint be dismissed with costs.

S. C. T. DODD,

Attorney for defendants, Archbold and Rogers, 26 Broadway, New York.

STATE OF NEW YORK,

County of New York, ss :

John D. Archbold, being duly sworn, says that he is one of the defendants above named; that the foregoing answer is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

JOHN D. ARCHBOLD.

Subscribed and sworn to before me, this 5th day of September, 1885.

[L. S.]

JAS. W. HALE,

Notary Public, New York County, 4 Hanover Street.

STATE OF NEW YORK,

County of New York, ss :

Henry H. Rogers, being duly sworn, says, that he is one of the defendants above named; that the foregoing answer is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

HENRY H. ROGERS.

Subscribed and sworn to before me, this 5th day of September, 1885.

[L. S.]

JAS. W. HALE,

Notary Public, New York County, 4 Hanover Street.

STATE OF NEW YORK,

Erie County Clerk's Office, ss :

I, Charles A. Orr, clerk of said county, do hereby certify that I have compared the annexed copy, answer, and copy indorsements thereon with an original and its indorsements entered and on file in this office, and find the same to be true transcripts of and from the said originals, and the whole of each thereof.

In witness whereof I have hereto set my hand and affixed the seal of said county, at Buffalo, this 18th day of July, 1888.

[SEAL.]

C. A. ORR,

Clerk.



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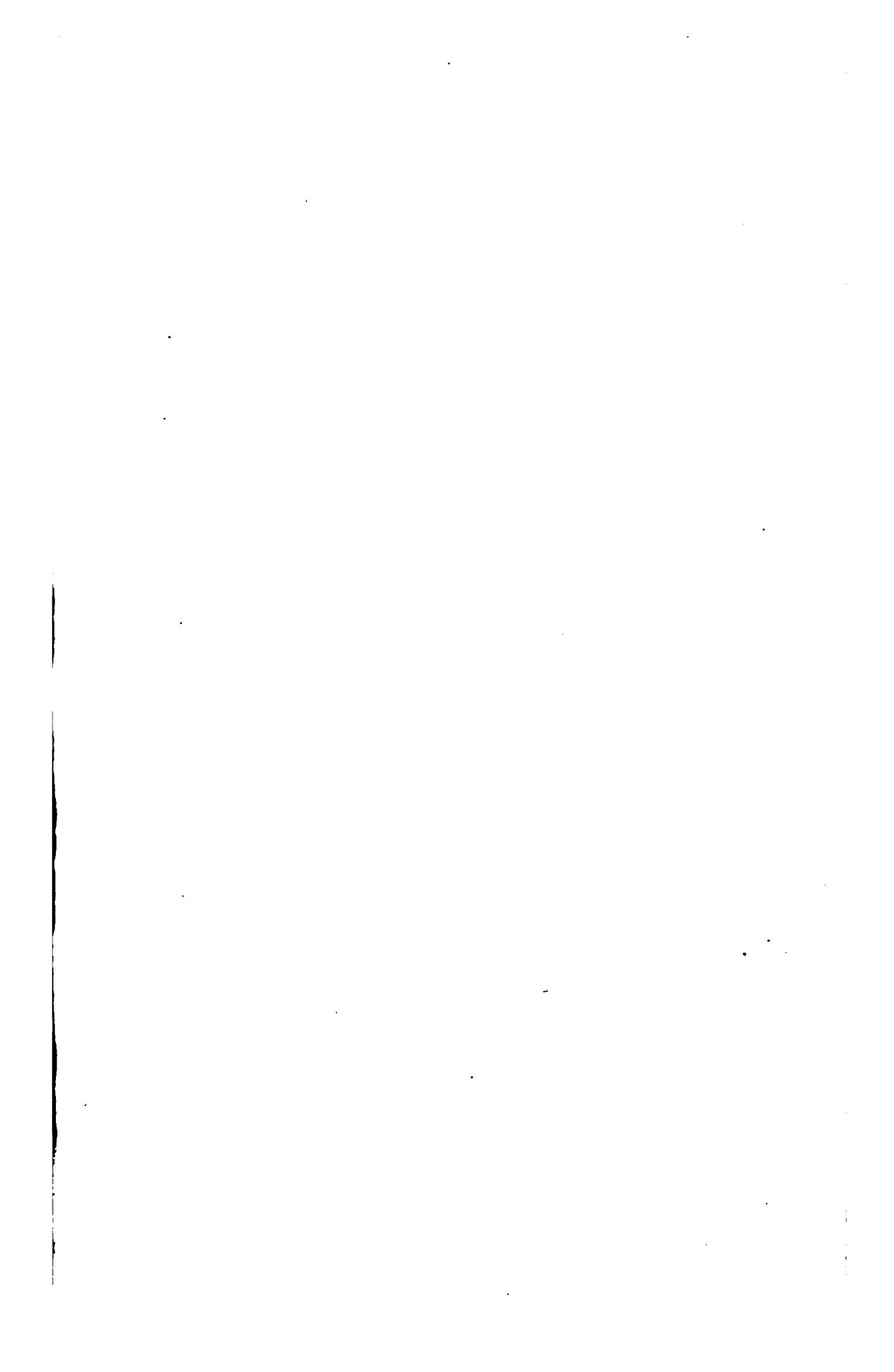
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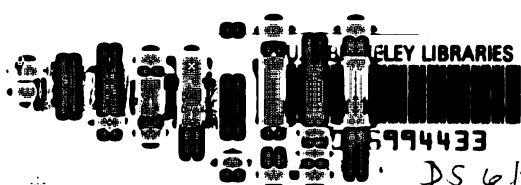
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